

FEDERAL REGISTER

VOLUME 19

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Washington, Saturday, September 11, 1954

TITLE 3—THE PRESIDENT EXECUTIVE ORDER 10558

AMENDMENT OF EXECUTIVE ORDER NO. 10154,¹ DESIGNATING CERTAIN OFFICERS OF THE POST OFFICE DEPARTMENT TO ACT AS POSTMASTER GENERAL

By virtue of the authority vested in me by section 179 of the Revised Statutes of the United States (5 U. S. C. 6), and as President of the United States, it is ordered that Executive Order No. 10154 of August 22, 1950, entitled "Designation of Certain Officers of the Post Office Department To Act as Postmaster General", be, and it is hereby, amended by adding to the list of officers contained therein at the end thereof the following: "5. Assistant Postmaster General in charge of the Bureau of Personnel."

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
September 8, 1954.

[F. R. Doc. 54-7179; Filed, Sept. 9, 1954; 2:34 p. m.]

EXECUTIVE ORDER 10559

PROVIDING FOR THE ADMINISTRATION OF THE PRESIDENT'S MANAGEMENT IMPROVEMENT APPROPRIATION

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Director of the Bureau of the Budget is hereby authorized and empowered to exercise the authority vested in the President by the paragraph appearing under the heading "Expenses of Management Improvement" in Title I of the Independent Offices Appropriation Act, 1955, 68 Stat. 274, or by any reenactment of the provisions of such paragraph in the same or in a different amount of funds, to allocate to any agency or office of the executive branch (including the Bureau of the Budget) funds appropriated by the said para-

graph or by any reenactment thereof as herein stated.

SEC. 2. The Director of the Bureau of the Budget shall from time to time report to the President concerning activities carried on by executive agencies and offices with funds allocated hereunder and shall, consonant with law, exercise such direction and control with respect to the said activities as he shall deem appropriate.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
September 8, 1954.

[F. R. Doc. 54-7180; Filed, Sept. 9, 1954; 2:34 p. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE ARMY

Effective upon publication in the FEDERAL REGISTER, paragraphs (a) (2), (5) and (6), (b) (1), (2), (3), and (4), (d) (1), (j) (1), (l) (1), (m) (1) of § 6.105, and paragraph (a) of § 6.204 are revoked, and paragraphs (e) (1) and (g) (1) of § 6.105 are amended as set out below.

§ 6.105 *Department of the Army.*

(e) *Engineer Department.* (1) Land appraisers employed on a temporary basis for a period not to exceed one year on special projects where knowledge of local values or conditions or other specialized qualifications not possessed by appraisers regularly employed by the Department are required for successful results.

(g) *Special Services Division.* (1) Until December 31, 1956, positions paid from the appropriation "Welfare of Enlisted Men," which entail responsibility for the direction or supervision of volun-

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¹ 15 F. R. 5653; 3 CFR, 1950 Supp., p. 115.

FEDERAL REGISTER

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CFR SUPPLEMENTS

(For use during 1954)

The following Supplements are now available:

Title 7: Parts 210-899 (\$2.25)

Title 19, Revised 1953 (\$5.00)

Title 32A, Revised Dec. 31, 1953 (\$1.50)

Title 46: Part 146 to end (\$6.50)

Previously announced: Title 3, 1953 Supp. (\$1.50); Titles 4-5 (\$0.60); Title 6 (\$2.00); Title 7: Parts 1-209, Revised 1953 (\$7.75); Part 900 to end (\$1.25); Title 8 (\$0.35); Title 9 (\$0.50); Titles 10-13 (\$0.50); Title 14: Parts 1-399 (\$1.25); Part 400 to end (\$0.50); Title 15 (\$1.25); Title 16 (\$1.00); Title 17 (\$0.50); Title 18 (\$0.45); Title 20 (\$0.70); Title 21 (\$1.50); Titles 22-23 (\$1.00); Title 24 (\$0.75); Title 25 (\$0.45); Title 26: Parts 1-79, Revised 1953 (\$7.75); Parts 80-169 (\$0.50); Parts 170-182 (\$0.75); Parts 183-299, Revised 1953 (\$5.50); Part 300 to end, and Title 27 (\$1.00); Titles 28-29 (\$1.25); Titles 30-31 (\$1.00); Title 32: Parts 1-699 (\$1.75); Part 700 to end (\$2.25); Title 33 (\$1.25); Titles 35-37 (\$0.70); Title 38 (\$2.00); Title 39 (\$2.00); Titles 40-42 (\$0.50); Title 43 (\$1.75); Titles 44-45 (\$0.75); Title 46: Parts 1-145 (\$0.35); Titles 47-48, Revised 1953 (\$7.75); Title 49: Parts 1-70 (\$0.60); Parts 71-90 (\$0.65); Parts 91-164 (\$0.45); Part 165 to end (\$0.60); Title 50 (\$0.55)

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tary educational or recreational programs and which, as an integral part of the job, require close working associations with the military personnel for whom such programs are conducted. Positions of librarian, library assistant, recreation leader, and recreation supervisor are included herein.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR, 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.
[F. R. Doc. 54-7142; Filed, Sept. 10, 1954; 8:50 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE AIR FORCE

Effective upon publication in the FEDERAL REGISTER, paragraph (c) (1) of § 6.107 is revoked, paragraphs (a) (2) and (d) (2) of § 6.107 are amended, § 6.216 is redesignated as § 6.207, and paragraph (b) is added to § 6.207 as set out below.

§ 6.107 Department of the Air Force—
(a) Office of the Secretary. * * *
(2) Five Special Assistants in the Office of the Secretary of the Air Force. These positions have advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with pilot studies.

(d) General. * * *
(2) Alien Scientists employed under the program for utilization of alien scientists approved under pertinent directives administered by the Joint Chief of Staff of the Department of Defense.

§ 6.207 Department of the Air Force. * * *
(b) Civilian Deans and Professors at the Air Force Institute of Technology, Wright-Patterson Air Base, Dayton, Ohio.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR, 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.
[F. R. Doc. 54-7140; Filed, Sept. 10, 1954; 8:50 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

FARM CREDIT ADMINISTRATION

Effective upon publication in the FEDERAL REGISTER, paragraph (c) is added to § 6.165 as set out below.

§ 6.165 Farm Credit Administration.

(c) Not to exceed seven positions in the Credit Services of the Farm Credit Administration in grades GS-13 or above, requiring technical or administrative experience in the field of agricultural credit: *Provided*, That this authority may be used only when making appointments of persons who have acquired such experience in the Farm Credit Administration or in one or more of the institu-

tions supervised by the Farm Credit Administration.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR, 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] Wm. C. HULL,
Executive Assistant.

[F. R. Doc. 54-7143; Filed, Sept. 10, 1954;
8:51 a. m.]

PART 6—EXCEPTIONS FROM THE
COMPETITIVE SERVICE

DEPARTMENT OF THE AIR FORCE

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (2) of § 6.307 is amended as set out below.

§ 6.307 *Department of the Air Force—(a) Office of the Secretary.* * * *

(2) Two Private Secretaries to the Secretary, and one Private Secretary to the Under Secretary, to each Assistant Secretary of the Air Force, and one to each Special Assistant whose appointment is authorized under subparagraph (1) of this paragraph.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR, 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] Wm. C. HULL,
Executive Assistant.

[F. R. Doc. 54-7141; Filed, Sept. 10, 1954;
8:50 a. m.]

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

COTTON TECHNOLOGIST

Section 24.120 is added to read as follows:

§ 24.120 *Cotton Technologist, GS-1390-5—(a) Educational requirement.* Applicants must have successfully completed one of the following:

(1) A full 4-year course in an accredited college or university leading to a bachelor's degree in cotton technology or related subjects such as physics, chemistry, or mechanical or electrical engineering. This study must have included courses in cotton technology consisting of lectures, recitations and appropriate laboratory work totaling at least 20 hours; or

(2) Courses in cotton technology or related subjects such as physics, chemistry, or mechanical or electrical engineering (in an accredited college or university, consisting of lectures, recitations and laboratory work totaling not less than 20 semester hours) plus additional appropriate experience or education which when combined with the 20 semester hours in cotton technology or related subjects will total four years of education and experience and give the applicant a technical knowledge comparable to that which would have been acquired through

successful completion of a 4-year college course.

(b) *Duties.* Persons appointed to these positions perform the following specific kinds of work:

(1) Cottonseed Technologists at this grade serve in a trainee capacity and assist higher grade Cotton Technologists perform work in connection with the testing and analyzing of cottonseed to ascertain the effect of variety, growth conditions, moisture, trash content, method of conditioning, sorting and handling and other related factors upon the quality and quantity of products obtained from cottonseed. They help interpret the results of these tests and analyses; help study the physical and chemical characteristics of cottonseed to determine those which can be measured at the gin in order to develop practical methods and techniques to grade cottonseed by individual lots as sold by producers; help observe and study present methods of grading cottonseed so these methods may be improved; and render preliminary recommendations and reports for publications on the results of their studies or experiments.

(2) Fiber Technologists at this grade assist higher grade technologists perform the more advanced laboratory studies in connection with testing or measuring the various properties of cotton fibers; assist in research studies and investigations designed to improve equipment and techniques and to develop new laboratory methods for the more precise and expeditious measurement of the various properties of cotton fibers and cotton products; study and observe the interrelationships of various fiber properties and the relationship of such properties to processing performance and product quality; and assist in analyzing and interpreting fiber test results and in the preparation of related reports and publications.

(3) Textile Technologists assist in making scientific investigations and experimental studies to determine the effect of various cotton fiber properties and other elements of quality in raw cotton or processing performance and on the quality of yarns and fabrics; and in helping conduct technical studies of the effect of different processing conditions and machine adjustments on the processing performance of cottons of various types and characteristics, and on product quality. They cooperate with State Agricultural Colleges and Experiment Stations on programs to improve cotton marketing and processing; serve cotton breeders, producers, merchants and manufacturers in testing the manufacturing performance of cottons; attend conferences with representatives of public and private research agencies, cotton manufacturers and other interested parties; and assist in analyzing and interpreting spinning test results and prepare related reports and publications.

(c) *Knowledge and training requisite for performance of duties.* The field of cotton technology is quite complicated and requires an intensive educational background. Cotton Technologists must have a full and complete knowledge of the physical and chemical properties of

cotton and cottonseed, the specific properties of cotton fibers and types of cotton fibers, and must also know the methods, techniques and practices involved in the production and marketing of cotton and cottonseed and the manufacture of cotton and cottonseed products. They must be able to design experiments and tests, properly interpret the results of these tests and disseminate the results of such tests or experiments to technical workers in the field and the general public.

(Sec. 11, 58 Stat. 390; 5 U. S. C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] Wm. C. HULL,
Executive Assistant.

[F. R. Doc. 54-7144; Filed, Sept. 10, 1954;
8:51 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 21]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.321 *Valencia Orange Regulation 21—(a) Findings.* (1) Pursuant to Order No. 22 (19 F. R. 1741), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective March 31, 1954, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia Orange Administrative Committee held an open meeting on September 9, 1954, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information

for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) The quantity of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., September 12, 1954, and ending at 12:01 a. m., P. s. t., September 19, 1954, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 450,450 boxes;
- (iii) District 3: Unlimited movement.

(2) Valencia oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges and which are effective during the period specified herein.

(3) As used in this section, "handler," "boxes," "District 1," "District 2," and "District 3," shall have the same meaning as when used in said order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: September 10, 1954.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[P. R. Doc. 54-7028; Filed, Sept. 10, 1954; 11:30 a. m.]

[Lemon Reg. 554]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.661 *Lemon Regulation 554—(a) Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 18 F. R. 6767), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice,

engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on September 8, 1954 such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., September 12, 1954, and ending at 12:01 a. m., P. s. t., September 19, 1954, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 275 carloads;
- (iii) District 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached to Lemon Regulation 553 (19 F. R. 5638) and made a part hereof by this reference.

(3) As used in this section, "handler," "handler," "carloads," "prorate base," "District 1," "District 2," and "District 3," shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Done at Washington, D. C., this 9th day of September 1954.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[P. R. Doc. 54-7194; Filed, Sept. 10, 1954; 8:56 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 42-27]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

AIRMAN REQUIREMENTS; PILOT TRAINING AND CHECK PROGRAM

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 8th day of September 1954.

Part 42 currently contains certain requirements for the training and checking of pilots operating in irregular air transportation. Revised Part 40, which became effective on April 1, 1954, and Part 41 contain similar requirements for scheduled air transportation. The scheduled air carriers conduct most of their operations under Parts 40 and 41 and thus organize their training programs in accordance with the requirements of these parts. However, these air carriers also conduct charter and special flights which they may operate in accordance with Part 42.

While the training requirements of Parts 40 and 41 are complete, there are some differences between them and the requirements of Part 42 which raise administrative problems for scheduled air carriers with respect to checking the qualifications of pilots to be assigned to a charter or special flight. For example, in revised Part 40 there is more flexibility in the requirements pertaining to the periodic checking of pilots. Since the pilots are continuously receiving training and experience in operations, it was believed that more flexibility would permit smoother administration by an air carrier of a program of periodic checks, without adversely affecting safety.

A pilot who may be engaged alternately in scheduled and irregular air carrier operations may be subject both to the applicable scheduled air carrier operating part and to Part 42. In view of the differences in form between the pilot training and qualification requirements of the scheduled and irregular air carrier rules, unnecessary duplication under these requirements results in such a case. The Board believes that the requirements of Parts 40 and 41 adequately fulfill the intent of the provisions of Part 42 even though there may be specific minor differences. Accordingly, this amendment provides that the recent flight experience and crew member proficiency provisions of Part 42 shall not apply to pilots who for the previous six months have been continuously in the employ of an air carrier which has established pilot training and check procedures in accordance with the requirements of Part 40 or Part 41.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended), effective October 13, 1954.

By amending § 42.40 (a) to read as follows:

RULES AND REGULATIONS

§ 42.40 Airman requirements. (a) No air carrier shall utilize an individual as an airman unless he has met the appropriate requirements of the Civil Air Regulations: *Provided*, That the provisions of §§ 42.44 (a) and 42.45 shall not be applicable to pilots who for the previous six months have been continuously in the employ and participating regularly in the training program of an air carrier which has established pilot training and check procedures in accordance with the requirements of Part 40 or Part 41 of this subchapter.

(Sec. 205; 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 604; 52 Stat. 1007, 1010, as amended; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 54-7158; Filed, Sept. 10, 1954;
8:54 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 73]

PART 610—MINIMUM EN ROUTE IFR ALTITUDES

MISCELLANEOUS AMENDMENTS

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to provide for safety in air commerce. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 610 is amended as follows: (Listed items to be placed in appropriate sequence in the sections indicated.)

1. Section 610.107 *Amber civil airway No. 7* is amended to read in part:

From—	To—	Minimum altitude
Miami, Fla. (LFR)....	Bayshore (INT), Fla....	1,400
Bayshore (INT), Fla....	West Palm Beach, Fla. (LFR).	1,500

2. Section 610.320 *Red civil airway No. 20* is amended to read in part:

From—	To—	Minimum altitude
Goodrich (INT), Mich.	Windsor, Ont., Canada (LFR).	2,300

¹ For that airspace over U. S. territory.

3. Section 610.368 *Red civil airway No. 68* is amended to read in part:

From—	To—	Minimum altitude
Taylor, Tex. (LFR).....	Shreveport, La. (LFR).	2,300

4. Section 610.390 *Red civil airway No. 90* is amended to read:

From—	To—	Minimum altitude
Camarillo, Calif. (LFR)	Canoga Park, Calif. (ILS/LOM).	5,000
Canoga Park, Calif. (ILS/LOM).	Burbank, Calif. (LFR):	
	Eastbound.....	8,000
	Westbound.....	5,000

5. Section 610.403 *Red civil airway No. 103* is amended to read in part:

From—	To—	Minimum altitude
Skilak ¹ (INT), Alaska.	Clearle (INT), Alaska.	9,000
Clearle (INT), Alaska.	Middleton Island, Alaska (LF/RBN).	2,000

¹ 6,100'—Minimum crossing altitude at Skilak (INT), Southeast-bound.

6. Section 610.627 *Blue civil airway No. 27* is amended to read in part:

From—	To—	Minimum altitude
Rocky Point (INT), Alaska.	King Salmon, Alaska (LFR).	8,300

7. Section 610.662 *Blue civil airway No. 62* is amended to read in part:

From—	To—	Minimum altitude
Detroit, Mich. (LFR).	Flint, Mich. (ILS/LOM).	2,500
Flint, Mich. (ILS/LOM).	Saginaw, Mich. (LP/RBM).	2,200

8. Section 610.1001 *Direct routes; United States* is amended by adding:

From—	To—	Minimum altitude
Middleton Island, Alaska (LF/RBM).	Seal (INT), Alaska....	2,000

9. Section 610.6004 *VOR civil airway No. 4* is amended to read in part:

From—	To—	Minimum altitude
Malad City, Idaho (VOR).	Green River (INT), Wyo.	13,800
Green River (INT), Wyo.	Rock Springs, Wyo. (VOR).	10,000

¹ 12,000'—Minimum terrain clearance altitude.

10. Section 610.6007 *VOR civil airway No. 7* is amended to read in part:

From—	To—	Minimum altitude
Miami, Fla. (VOR), via W alter.	Tamiami ¹ (INT), Fla. via W alter.	1,200
Tamiami (INT), Fla., via W alter.	Ft. Myers, Fla. (VOR), via W alter.	2,000

¹ 2,000'—Minimum reception altitude.

² 1,200'—Minimum terrain clearance altitude.

11. Section 610.6016 *VOR civil airway No. 16* is amended to read in part:

From—	To—	Minimum altitude
Salt Flat, ¹ Tex. (VOR).	Gore (INT), Tex.	10,000
Gore ² (INT), Tex.	Wink, Tex. (VOR)....	6,000

¹ 8,200'—Minimum crossing altitude at Salt Flat (VOR), eastbound.

² 7,200'—Minimum crossing altitude at Gore (INT), westbound.

12. Section 610.6022 *VOR civil airway No. 22* is amended to read in part:

From—	To—	Minimum altitude
Tallahassee, Fla. (VOR).	Greenville (INT), Fla.	1,400
Greenville (INT), Fla.	Genoa ¹ (INT), Fla....	2,000
Genoa ¹ (INT), Fla....	Taylor (INT), Fla....	2,500
Taylor ¹ (INT), Fla....	Jacksonville, Fla. (VOR).	1,300

¹ 3,000'—Minimum reception altitude.

² 1,500'—Minimum terrain clearance altitude.

³ 1,300'—Minimum terrain clearance altitude.

⁴ 1,500'—Minimum reception altitude.

13. Section 610.6024 *VOR civil airway No. 24* is amended to eliminate:

From—	To—	Minimum altitude
Jamestown, N. D. (VOR).	Aberdeen, S. D. (VOR).	1,300

¹ 2,300'—Minimum terrain clearance altitude.

14. Section 610.6042 *VOR civil airway No. 42* is amended to read in part:

From—	To—	Minimum altitude
Pullman, Mich. (VOR).	Bedford (INT), Mich.	1,300

¹ 3,000'—Minimum terrain clearance altitude.

15. Section 610.6111 *VOR civil airway No. 111* is added to read:

From—	To—	Minimum altitude
Salinas, Calif. (VOR)...	Int. 604° rad. San Francisco, Calif. (VOR), and 632° rad. Salinas, Calif. (VOR).	1,700

¹ 5,500' Minimum terrain clearance altitude.

16. Section 610.6134 VOR civil airway No. 134 is added to read:

From—	To—	Minimum altitude
Evergreen, Ala. (VOR)	Columbus, Ga. (VOR)	3,500
Columbus, Ga. (VOR)	Atlanta, Ga. (VOR)	2,400

¹2,100'—Minimum terrain clearance altitude.

17. Section 610.6164 VOR civil airway No. 164 is amended to read:

From—	To—	Minimum altitude
Grover (INT), Pa.	Wilkes-Barre, Scranton, Pa. (LFR)	4,000
Wilkes-Barre Scranton, Pa. (LFR)	Stillwater (INT), N. J.	6,000
Stillwater (INT), N. J.	Caldwell, N. J. (VOR)	6,000

¹6,000'—Minimum reception altitude.

²4,000'—Minimum terrain clearance altitude.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

These rules shall become effective September 28, 1954.

[SEAL]

S. A. KEMP,
Acting Administrator
of Civil Aeronautics.

[F. R. Doc. 54-7060; Filed, Sept. 10, 1954; 8:45 a. m.]

[Amdt. 4]

PART 620—SECURITY CONTROL OF AIR TRAFFIC

DESIGNATION OF CALIFORNIA (DOMESTIC) ADIZ

Part 620 is hereby amended for the purpose of deleting the common boundary separating the San Francisco (Domestic) ADIZ and the Los Angeles (Domestic) ADIZ. The single ADIZ formed as a result of this action is designated as the California (Domestic) ADIZ, and its boundaries are defined in subparagraph (b) of § 620.21. Since a military function of the United States is involved, compliance with notices, procedures, and effective date provisions of section 4 of Administrative Procedure Act is not required.

Section 620.21 is amended as follows:

1. Amended paragraph (b) to read:

(b) *California (Domestic) ADIZ.* The area bounded by a line 42° 00' N., 120° 00' W.; due south to 39° 00' N., 120° 00' W.; 35° 00' N., 114° 30' W.; due east to 35° 00' N., 113° 30' W.; due south to 32° 05' 30' N., 113° 30' W.; westerly along the U. S.-Mexican international boundary to 32° 32' 03' N., 117° 07' 25' W.; 32° 30' N., 117° 20' W.; due west to 32° 30' N., 117° 45' W.; 33° 15' N., 118° 30' W.; 34° 00' N., 120° 30' W.; 34° 50' N., 121° 10' W.; 38° 50' N., 124° 00' W.; 40° 00' N., 124° 35' W.; 42° 00' N., 124° 38' 10' W.; due east to 42° 00' N., 120° 00' W. (point of beginning).

2. Delete paragraph (c) designating the Los Angeles (Domestic) ADIZ.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 1201-1204, 64 Stat. 825; 49 U. S. C. Sup. 701-704)

This amendment shall become effective October 1, 1954.

[SEAL]

S. A. KEMP,
Acting Administrator
of Civil Aeronautics.

[F. R. Doc. 54-7118; Filed, Sept. 10, 1954; 8:46 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IV—Joint Regulations of the Armed Forces

Subchapter A—Armed Services Procurement Regulation

PART 403—COORDINATED PROCUREMENT

This part has been revised in its entirety and now collates all applicable material on the subject, except for individual procurement assignments.

Sec.	Scope of part.
403.000	Interdepartmental procurement.
403.001	Procurement agreements.

SUBPART A—DEFINITION OF TERMS

403.101	Definitions.
403.101-1	Coordinated procurement.
403.101-2	Single procurement.
403.101-3	Requiring Department.
403.101-4	Procuring Department.
403.101-5	Military Interdepartmental Purchase Request.

SUBPART B—POLICIES AND GENERAL PRINCIPLES

403.200	Scope of subpart.
403.201	Application of procurement assignment.
403.202	Responsibilities under single procurement.
403.202-1	Single Department Procurement.
403.202-2	Joint procurement.
403.202-3	Plant cognizance procurement.
403.203	General principles covering implementation of procurement assignments.
403.203-1	Standard format; development and promulgation of implementing procedures.
403.203-2	Relationship between research and development and single procurement.
403.203-3	Small dollar value purchases.
403.203-4	Emergency.
403.203-5	Department of Defense manufacturing establishments.
403.204	Items in short supply.
403.205	Transfer of uncompleted contracts.
403.205-1	Effect of assignment of procurement responsibility.
403.205-2	Disputes under transferred contracts.
403.205-3	Contracting Officers under transferred contracts.
403.206	Purchase authorization.
403.207	Components of end items.
403.207-1	Contractor-furnished components.
403.207-2	Government-furnished components.
403.207-3	Purchase of components over and above those initially purchased with the end item.
403.208	Funds and payments.
403.209	Charges and surcharges.
403.210	Administrative costs.
403.211	Inspection.
403.212	Execution and administration of contracts.
403.213	Status reporting.
403.214	Specifications.
403.215	Transportation of supplies.

AUTHORITY: §§ 403.000 to 403.215 Issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. 151-161.

§ 403.000 *Scope of part.* This part sets forth, on the basis of the provisions of and authority contained in the Armed Services Procurement Act of 1947 (41 U. S. C. 151-161), as amended, and the National Security Act of 1947 (5 U. S. C. 171-172j), as amended, the basic policies and requirements relating to coordinated procurement of supplies and services.

§ 403.001 *Interdepartmental procurement.* Procurement of supplies and services from or through Government departments or agencies outside the Department of Defense shall be accomplished in the manner set forth in Part 404 of this subchapter.

§ 403.002 *Procurement agreements.* Section 10 of the Armed Services Procurement Act provides that Department heads by agreement may make such assignments and delegations of procurement responsibilities from one Department to another or may create such joint or combined Procuring Activities or agencies as they deem necessary or desirable. Nothing set forth in this subchapter shall preclude the Departments from making agreements under said section 10 which do not violate the single procurement policies and procedures set forth in this part or in applicable Department of Defense Directives, Instructions, and regulations.

SUBPART A—DEFINITION OF TERMS

§ 403.101 *Definitions.* As used in this subchapter, the following terms have the meanings set forth in §§ 403.101-1 to 403.101-5.

§ 403.101-1 *Coordinated procurement.* The term "coordinated procurement" refers to procurement (a) of supplies and services pursuant to the authority set forth in § 403.002, and (b) of supplies under single procurement as defined in § 403.101-2.

§ 403.101-2 *Single procurement.* The term "single procurement" refers to procurement of supplies pursuant to assignments of procurement responsibility made by the Secretary of Defense. The following are approved types of single procurement:

(a) "Single department procurement," whereby one Department procures certain supplies to satisfy the requirements of all the Departments.

(b) "Plant cognizance procurement," whereby one Department procures certain supplies from a particular plant to satisfy the requirements of all the Departments. This type of procurement is limited presently to airframes, aircraft engines, and propellers.

(c) "Joint procurement," whereby a jointly staffed and financed agency within the Department of Defense procures certain supplies to satisfy the requirements of all the Departments.

§ 403.101-3 *Requiring Department.* The term "Requiring Department" refers to the Department originating a requisition or purchase request for supplies.

§ 403.101-4 *Procuring Department.* The term "Procuring Department" refers to the Department or agency which is assigned the procurement responsibility for the supplies.

§ 403.101-5 *Military Interdepartmental Purchase Request.* This term, hereinafter referred to as "MIPR," refers to DD Form 448 (Military Interdepartmental Purchase Request) executed by a Requiring Department as a request for supplies to be procured or furnished by the Procuring Department.

SUBPART B—POLICIES AND GENERAL PRINCIPLES

§ 403.200 *Scope of subpart.* This subpart sets forth policies and general principles governing the single procurement of supplies by the Departments.

§ 403.201 *Application of procurement assignment.* Single procurement in the form of single department, joint agency, or plant cognizance procurement shall be effected whenever it will result in net advantages to the Department of Defense as a whole, except so far as it can be demonstrated that use of such a procurement method will adversely affect military operations.

§ 403.202 *Responsibilities under single procurement.*

§ 403.202-1 *Single Department Procurement.* The Procuring Department is generally responsible for the following, under single department procurement (for specific assignment of procurement responsibilities, see DOD publication "Procurement Assignments, List of Commodities"):

(a) Operational phases of procurement planning (phasing the submission of requirements, consolidating requirements, analyzing the market, and determining patterns for the phased placement of orders in such a manner as to assure meeting the needs of the Departments at the lowest possible price to the Government, and at the same time avoiding unnecessary peaks and valleys of production).

(b) Purchasing.

(c) Contract Administration, including arrangements for follow-up and expediting.

(d) Acquisition of licenses under patents or other proprietary rights covering the subject matter of the procurement and the settlement of patent infringement claims arising out of the procurement. Approval of the Department or Departments whose funds are to be charged for the acquisition of licenses or settlement of claims will be obtained.

(e) Arrangement for inspection.

(f) Arrangement for transportation.

(g) Development, under the policies of the Assistant Secretary of Defense (Supply and Logistics), of joint Military or Federal specifications when possible.

(h) Initiation and promotion, under the policies of the Assistant Secretary of Defense (Supply and Logistics), of the maximum degree of standardization.

§ 403.202-2 *Joint procurement.* Responsibilities for procurement by a joint agency are as set forth in the individual agency charter.

§ 403.202-3 *Plant cognizance procurement.* Responsibilities for procurement and mobilization planning are as set forth in the Munitions Board memorandum of 14 February 1949, subject: "Assignment of Procurement Responsibilities and Mobilization Planning Responsibilities in Selected Aviation Plants," and any amendments thereto.

§ 403.203 *General principles governing implementation of procurement assignments.*

§ 403.203-1 *Standard format; development and promulgation of implementing procedures.* Implementation of a procurement assignment shall be accomplished in accordance with Department of Defense Directive 4115.28, July 26, 1952, subject: "Implementation of Procurement Assignments," and any amendments thereto.

§ 403.203-2 *Relationship between research and development and single procurement.* Items are not subject to procurement assignment until they have reached the production stage.

§ 403.203-3 *Small dollar value purchases.* Requirements of small dollar value will be procured in accordance with the provisions of the approved implementing procedures covering the particular assignment.

§ 403.203-4 *Emergency.* In case of emergency, where the exigencies of the situation will not permit of the delay incident to following the normal channels of single procurement, purchases may be made without the prior authorization of the Procuring Department. When such emergency purchases are made, one copy of the contractual instrument, bearing or accompanied by a statement of the emergency, shall be transmitted promptly to the purchasing activity of the Procuring Department.

§ 403.203-5 *Department of Defense manufacturing establishments.* When procurement assignments have been made for items required by manufacturing establishments of the Departments, these items shall be obtained through the facilities of the Procuring Department unless such action will unduly hinder or delay production. When procurements are made other than through the Procuring Department, one copy of the contractual instrument bearing or accompanied by a statement of the circumstances necessitating such procurement shall be transmitted promptly to the purchasing activity of the Procuring Department. This section is not applicable when purchases are made pursuant to § 403.203-3.

§ 403.204 *Items in short supply.* In cases where shortages in supplies develop, the normal procedure will be to resolve the problem on a Departmental level. If mutual agreement cannot be reached, the subject shall be referred to the Joint Munitions Allocations Committee of the Joint Chiefs of Staff for decision.

§ 403.205 *Transfer of uncompleted contracts.*

§ 403.205-1 *Effect of assignment of procurement responsibility.* As a gen-

eral rule, when the procurement responsibility for a commodity or class of commodities is assigned to one Department, uncompleted contracts of any other Department for any such commodity or class of commodities will not be transferred but will continue to be administered for all purposes by such other Department.

§ 403.205-2 *Disputes under transferred contracts.* In the case of any contract transferred, or to be transferred, from one Department to another Department, which contract refers to either the Navy Department Board of Contract Appeals or the Army Board of Contract Appeals, the contract shall be amended to provide that the Armed Services Board of Contract Appeals will hear and decide all disputes concerning questions of fact which are appealed pursuant to the "disputes" clause of such transferred contract.

§ 403.205-3 *Contracting Officers under transferred contracts.* In the case of any contract transferred, or to be transferred, to any Department, the successor to the Contracting Officer for each such contract shall be the Head of the Procuring Activity (or any Contracting Officer thereof) to which the administration of any such contract is assigned, and any such successor shall have all of the rights and responsibilities of a Contracting Officer under such transferred contract.

§ 403.206 *Purchase authorization.* MIPR's or other authorized procurement requests, when received by the Procuring Department, will be the authority to procure the supplies listed thereon or to furnish from stock, in accordance with agreements between the Departments concerned, subject to the provisions of § 403.208. Although the Procuring Department has no responsibility to determine the validity of a stated requirement in an approved procurement request, it should bring to the attention of the Requiring Department apparent or obvious errors in the requirement. Deviations from provisions of the MIPR or other authorized procurement request shall not be made by the Procuring Department without approval of the Requiring Department.

§ 403.207 *Components of end items.*

§ 403.207-1 *Contractor-furnished components.* In the procurement of end items where the Contractor normally secures all components thereof from his own source (not Government-furnished), the procurement assignment does not apply to the component items required by such Contractor.

§ 403.207-2 *Government-furnished components.* In the procurement of end items where the Government furnishes components which are covered by a procurement assignment, such components shall be procured in accordance with the procurement assignment. However, direct purchase may be made by a Requiring Department in exceptional cases where agreement is reached with the Procuring Department.

§ 403.207-3 *Purchase of components over and above those initially purchased with the end item.* The procurement of components covered by a procurement assignment, over and above those initially purchased with the end item, shall be effected in accordance with the procurement assignment. However, direct purchase may be made by a Requiring Department in exceptional cases where agreement is reached with the Procuring Department.

§ 403.208 *Funds and payments.* [Reserved] (Pending publication of this section, funds to be obligated by a Contracting Officer in response to a MIPR or other authorized procurement request shall not exceed the amounts certified by the requiring activity, in accordance with the provisions of Department of Defense Directive 7200.1, March 20, 1952, subject: "Administrative Control of Appropriations within the Department of Defense, and implementing Departmental regulations").

§ 403.209 *Charges and surcharges.* Items requested by one Department from another Department which are furnished from inventory stocks shall be billed at catalog or book price. However, when items do not fully conform to prescribed specifications or standards, or are considered excess or obsolete stock, the items shall be billed at a price mutually agreeable to both Departments. Items furnished from stocks financed by stock funds shall be handled in accordance with Department of Defense regulations governing the operation of stock funds. Costs of packing, crating, and handling such materials shall not be billed unless approved by the Assistant Secretary of Defense (Comptroller). Administrative costs shall be handled in accordance with § 403.210.

§ 403.210 *Administrative costs.* The Procuring Department shall bear, without reimbursement therefor, the administrative costs incidental to its procurement of supplies for another Department. However, when a procurement responsibility is transferred from one Department to another Department, funds appropriated or to be appropriated for defraying the administrative costs of such procurement responsibility shall be made available to the successor Procuring Department which shall assume budget cognizance at the earliest possible date.

§ 403.211 *Inspection.* Policies and procedures concerning inspection and acceptance for use in conjunction with this part are set forth in Part 413 of this subchapter.

§ 403.212 *Execution and administration of contracts.* Generally, the Procuring Department will execute a single contract where an award embodying the requirements of more than one Department is made to a single Contractor. Administration of contracts shall be in accordance with the procedures developed by the Procuring Department in accordance with § 403.203-1.

§ 403.213 *Status reporting.* Appropriate systems of followup shall be maintained by the Procuring Department.

ment in order that contracting personnel may be currently informed as to the performance by a Contractor and to further insure that Requiring Departments are apprised of the status of contracts.

§ 403.214 *Specifications.* The Procuring Department shall have the responsibility for the following specification activities, except as otherwise assigned:

(a) Obtaining from the Requiring Department a list of (or copies of) specifications used in the assigned field;

(b) Reviewing the specifications to determine those which are of such interest that military or Federal specifications should be prepared;

(c) Taking action to have initiated military or Federal specifications projects;

(d) Acting as custodian of military specifications in assigned fields.

Under no circumstances will the Procuring Department direct or authorize deviations from the specifications contained in the MIPR without express authority of the Requiring Department.

§ 403.215 *Transportation of supplies.* Subject to the provisions of § 400.306, every requisition or procurement request shall show the appropriation or fund and accounting classification chargeable for such transportation costs as may be incurred in effecting delivery at Government expense. Government bills of lading, when required, will generally be issued by the Procuring Department. In every instance, the Government bill of lading shall show (a) the Requiring Department as the Department to be billed, and (b) the appropriation or fund designated by that Department as the appropriation chargeable. Where Government bills of lading of the Procuring Department are used to cover shipment of supplies consigned to the Requiring Department, the bill of lading number shall be prefixed by the name of the Requiring Department.

T. P. PIKE,
Assistant Secretary of Defense
(Supply and Logistics).

[F. R. Doc. 54-7112; Filed, Sept. 10, 1954;
8:45 a. m.]

PART 406—CONTRACT CLAUSES AND FORMS

SUBPART A—CLAUSES FOR FIXED PRICE SUPPLY CONTRACTS

REQUIRED CLAUSES

Section 406-103 *Required clauses*, is amended as follows:

1. Section 406-103-8 (b) is amended by deletion of the classification category "Restricted" therefrom, to conform the "Assignment of Claims" clause to Executive Order 10501 (18 F. R. 7049) and DOD Directive 5200.1, November 19, 1953. It now reads as follows:

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret", "Secret", or "Confidential", be furnished to any assignee of any claim arising under this contract or to any other person not entitled

to receive the same: *Provided*, That a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

2. Section 406.103-12 has been revised to conform to 68 Stat. 81. It now reads as follows:

§ 406.103-12 *Disputes.*

DISPUTES

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearing of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive; provided that, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

With respect to inclusion of a "Disputes" clause in construction contracts, see § 415.004-3 (d).

In accordance with Department procedures, the foregoing clause may be modified to provide for intermediate appeal to the Head of the Procuring Activity concerned. The decision of the Contracting Officer referred to in the above clause shall, if mailed, be sent by registered mail, return receipt requested.

(R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. 151-161)

T. P. PIKE,
Assistant Secretary of Defense
(Supply and Logistics).

[F. R. Doc. 54-7113; Filed, Sept. 10, 1954;
8:45 a. m.]

PART 407—TERMINATION OF CONTRACTS

MISCELLANEOUS AMENDMENTS

Several changes have been made to Part 407 which should result in a considerable measure of expedition of settlement of subcontracts and disposal of termination inventory.

1. Section 407.518-6 has been amended by increasing the monetary authority for settlement by prime and subcontractors of subcontract termination claims without approval by the Contracting Officer from \$1,000 to \$10,000. It now reads as follows:

§ 407.518-6 *Authorization of settlement under \$10,000 of subcontractors' termination proposals without approval or ratification.* (a) The Contracting

Officer may, if satisfied with the adequacy of the procedures used by the Contractor in settling the termination claims (including proposals for retention, sale, or other disposal of termination inventory, of its immediate and lower tier subcontractors, upon the written request by the Contractor, authorize the Contractor to conclude settlements of his terminated subcontracts, which settlements shall thereupon be reimbursable in accordance with this part and the Termination Clause of the contract, without requiring approval or ratification by the Contracting Officer, subject, however, to the following conditions and requirements:

(1) The amount of any such subcontract termination settlement does not exceed \$10,000, determined in accordance with § 407.202: *Provided, however*, That the Contracting Officer shall not grant to the Contractor any authority hereunder in respect of subcontract termination settlements between \$1,000 and \$10,000 without the express written approval of the Head of the Procuring Activity concerned, or of a deputy or principal assistant responsible for contract matters.

(2) Any termination inventory included in the determination of the amount of the settlement has been disposed of in accordance with the procedures set forth in § 407.614, except that the disposition of such inventory shall not (i) be subject to review by the Contracting Officer under the provisions of § 407.614-1 (a) or § 407.614-4, or (ii) be subject to the provisions of § 407.614-5 (a).

(3) Completed articles allocable to the terminated subcontract may also be disposed of without review by the Contracting Officer under § 407.614-1 (a) or § 407.614-4, and without screening under § 407.614-5 (a), provided that the amount thereof (at the subcontract price) when added to the amount of the settlement as determined under subparagraph (1) of this paragraph does not exceed \$10,000. Except to this extent, § 407.614 shall apply to any disposal of completed articles allocable to the terminated subcontract.

(4) Each such settlement is accompanied by a certificate in the form set forth in § 407.708.

(b) The Contracting Officer granting the above defined authorization to a Contractor shall be responsible for periodically making a selective review of settlements to determine whether the Contractor is making adequate reviews and fair settlements, and whether such authorization shall remain in effect. Whenever the Contracting Officer determines that the Contractor's procedures are not adequate or that improper settlements are being made, he may revoke the authorization by written notice to the Contractor. The revocation of the authority shall take effect only from the date of receipt of written notice by the Contractor.

(c) Any number of separate settlements of \$10,000 or less may be made with a single subcontractor. Claims which would normally be included in a single settlement proposal, such as those

based on a series of separate orders for the same item under one contract, should be consolidated wherever possible, and must not be divided in such a way as to bring them within the authorization provided for in this paragraph.

2. Section 407.601-3 has been amended as follows: § 407.601-3, as revised facilitates disposal of Government-furnished property by eliminating the requirement that supplies must be surplus before disposition is authorized. It now reads:

§ 407.601-3 *Government - furnished property.* Government-furnished property which is included in termination inventory, delivery of which has not been required by the Government, may be disposed of in the same manner as other termination inventory after screening in accordance with the requirements of § 407.606, except that § 407.602 does not apply to the disposition of such Government-furnished property. The Contracting Officer is required to approve all such dispositions and may specify methods for preparing and routing inventory schedules covering such property.

3. Section 407.602 as revised authorizes Contractors to return Contractor-acquired property to their suppliers and to secure reimbursement and restocking charges or 15 percent of the cost of returned inventory, whichever is less; where proper use of retained contractor-acquired property requires moving of inventory, a Contractor may now be reimbursed for the reasonable cost of handling and transportation.

§ 407.602 *Retention of contractor-acquired property by contractor; return of property to suppliers.*

§ 407.602-1 *Retention of property by contractors.* Subject to the right of the Government to acquire any item of Contractor-acquired property and to the provisions of § 407.602-3, Contractors are encouraged to retain such property at cost and shall not include any part of the cost of property so retained in settlement proposals, except that in any instance in which a Contractor desires to retain any allocable Contractor-acquired property for the purpose of utilization at another plant location and such retention is deemed to be in the best interest of the Government, reasonable handling and transportation charges with respect to property so retained may be included in the Contractor's settlement proposal as "other costs."

§ 407.602-2 *Return of property to suppliers.* Subject to the right of the Government to acquire any item of Contractor-acquired property and to the provisions of § 407.602-3, Contractors are authorized and encouraged to return allocable quantities of such property to suppliers for full credit less the supplier's normal restocking charge, or 15 percent of cost, whichever is less. Contractors shall not include in their termination settlement proposals the cost of termination inventory returned to suppliers in accordance with this paragraph. The Contractor may include in his settlement proposal as "other costs" the transportation, handling, and restocking charges with respect to the property so returned.

§ 407.602-3 *Cost-reimbursement type contracts.* Whether or not the Government has previously acquired title thereto under the provisions of a cost-reimbursement type contract, the Contractor may, with the approval of the Contracting Officer, upon appropriate adjustment of any previously reimbursed costs retain or return to the supplier any items of Contractor-acquired termination inventory under the provisions of §§ 407.602-1 and 407.602-2.

4. Section 407.603-2 has been amended by the addition of a sentence. It now reads as follows:

§ 407.603-2 *General classifications.* Contractor-acquired property and Government-furnished property shall be listed separately to the extent practicable. Within each of these categories, separate sets of schedules shall be submitted (as set forth in Subpart G of this part) covering the following:

- (a) Serviceable aircraft or aircraft components;
- (b) Other serviceable or usable materials;
- (c) Scrap or salvage.

To the extent that it may be practicable, separate sets of schedules will be submitted for property to be screened and property not to be screened under the provisions of § 407.606. The classification proposed by the Contractor in his schedules shall be subject to the approval of the Contracting Officer.

5. Section 407.606 *Screening of serviceable and useable property* has been amended as follows:

§ 407.606 *Screening of serviceable and useable property.*

§ 407.606-1 *Scope of screening.* (a) Subject to the provisions of paragraphs (b), (c), and (d) of this section serviceable and useable property included in the Contractor's inventory schedules will be screened as follows:

(1) Inventories of aircraft and aircraft components will be screened for possible redistribution within the Air Force and the Navy;

(2) Inventories of other items will be screened to the extent required by the Procuring Activity. Items which are reportable for further screening under applicable regulations will be so reported;

(3) Termination inventory to which the provisions of § 407.518-6 are applicable does not require screening.

(b) If the contractor has been directed by the Notice of Termination to deliver any items of termination inventory to the Government no further screening of those items will be required.

(c) If the total serviceable and usable property included in the Contractor's inventory schedules has an original cost of \$500 or less, such property need not be screened unless the Contracting Officer determines that screening is desirable.

(d) Line items included in the Contractor's inventory, having an original cost of \$300 (\$1,000 in the case of foreign excess) or less, need not be screened (unless the Contracting Officer determines that screening is desirable), provided that such items are listed by the

Contractor on a separate schedule or schedules. The term "line item" as used in this paragraph means all substantially similar articles under any one contract at any one location and which should be listed as a single entry in an inventory schedule.

§ 407.608-2 *Screening period.* If screening under § 407-606 has not been completed within 60 calendar days after the date the property involved is reported by the Procuring Activity to the Surplus Materials Division, Department of Defense, and no instructions with respect to such property have been received by the Contracting Officer within such 60-day period, the Contracting Officer shall promptly notify the Contractor and thereafter such property may be sold or otherwise disposed of as hereinafter set forth.

6. Section 407.607 *Acquisition by Government* is amended by deletion of the phrase, "and (c) other agencies of the Government" from the last sentence.

7. The amendments to § 407.608-3 result in substantial enlargement of the authority of Contracting Officers to permit disposition of termination inventory by negotiated sales. The amended section reads as follows:

§ 407.608-3 *Other sales.* (a) Acquisitions or sales, other than those under paragraph (b) of this section, may be authorized without competitive bids whenever in the opinion of the Contracting Officer the use of such method of disposal is essential in the interest of making a fair and prompt settlement (including the expeditious clearance of the Contractor's plant) and provided the interests of the Government are adequately protected. Acquisitions and sales under this paragraph shall be at a price which is (1) fair and reasonable, (2) not less than the proceeds which could reasonably be expected to be obtained if the property were offered for competitive sale at such time, (3) approved by the Contracting Officer, and (4) subject to the provisions of paragraph (c) of this section.

(b) After such appropriate screening as may be provided by the regulations of the various departments, scientific equipment allocated to terminated research and development contracts with educational institutions may be sold to the Contractor in possession for use in educational or research pursuits without obtaining competitive bids. Prices under which such equipment is transferred shall be based upon negotiations between the Contractor and the Contracting Officer: *Provided*, That such prices shall be fair and reasonable and not less than the proceeds that could reasonably be expected to be obtained if the property were offered for competitive sale at such time.

(c) Any acquisitions or sales made under paragraph (a) or (b) of this section without competitive bids shall be subject to the prior approval of a Property Disposal Review Board, or other designated reviewing agency, to the extent required by departmental procedures, in addition to the required approval of the Contracting Officer under

§ 407.608-1 and paragraph (a) (3) of this section: *Provided, however*, That the approval of such a board or other reviewing agency shall be required, as a minimum, in any case hereunder in which the original acquisition cost of the materials involved exceeds \$25,000.

8. Section 407.613-2 is amended to read as follows:

§ 407.613-2 *Required review.* The following property disposal matters shall be reviewed by a Property Disposal Review Board prior to approval or ratification by the Contracting Officer:

(a) A determination that material is scrap or salvage, if the original acquisition cost of the material is \$25,000 or more.

(b) A release from a scrap warranty, if the original acquisition cost of the material is \$10,000 or more.

(c) Any acquisitions or sales made without competitive bids in accordance with § 407.608-2 to the extent required by departmental procedures in accordance with § 407.608-3.

(d) A determination that property is donable in accordance with § 407-609 and a determination to destroy or abandon material in accordance with § 407-610 if the original acquisition cost of the material exceeds \$1,000.

(e) Whenever the Contracting Officer deems it appropriate.

9. Section 407.614 as revised, provides authority for direct submission for approval of subcontractors' inventory schedules by their next higher-tier subcontractors to cognizant Contracting Officers. The amended paragraph reads as follows:

§ 407.614 *Subcontractor termination inventory.*

§ 407.614-1 *General policy.* (a) The Prime Contractor and each subcontractor is primarily responsible for disposing of the termination inventory of its next lower-tier subcontractors, but all such disposals shall be subject to review by the Contracting Officer as to reasonableness in connection with the approval or ratification (except as otherwise provided in § 407.518-6) of the Prime Contractor's settlements with its subcontractors under § 407.518-7. The policy relating to methods of disposal, responsibility for sales, and Government-furnished property and the general restrictions on Contractors' authority, as set forth in § 407.601, shall be applicable in the case of subcontractors. Any rights which the Prime Contractor has or acquires in the termination inventory of its first-tier or lower-tier subcontractors shall, to the extent directed by the Contracting Officer, be exercised for the benefit of the Government, in accordance with the provisions of the contract between the Government and the Prime Contractor.

(b) Subcontractors in all tiers will prepare inventory schedules in accordance with the requirements of this part. Normally disposition instructions for termination inventory, except serviceable and usable property, will be furnished by the next higher-tier subcontractor or the Prime Contractor, as the case may be. Each subcontractor may submit its next

lower-tier subcontractors' termination inventory schedules of serviceable and usable property directly to the Contracting Officer for review and disposition instructions, unless otherwise directed by the Contracting Officer. In the interest of expediting disposition of termination inventory, the cognizant Contracting Officer will permit such direct submission, unless he determines that the submission of inventory schedules through all intermediate tiers of subcontractors is necessary in the best interest of the Government. When such a determination is made, it must be in writing and a copy submitted to the Head of Procuring Activity concerned for review.

(R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. 151-161)

T. P. PIKE,
Assistant Secretary of Defense
(Supply and Logistics).

[F. R. Doc. 54-7114; Filed, Sept. 10, 1954;
8:46 a. m.]

PART 408—PATENTS AND COPYRIGHTS

MISCELLANEOUS AMENDMENTS

Part 408, *Patents and Copyrights*, has been amended as follows:

1. Section 408.001, *Effective date of part*, has been deleted. In lieu thereof, the following section has been inserted:

§ 408.000 *Scope of part.* This part sets forth policies, instructions and contract clauses pertaining to patents and copyrights in connection with the procurement of supplies and services.

The amendments to §§ 408.102 and 408.105 provide that the clauses entitled "Notice and Assistance Regarding Patent Infringement" and "Patent Indemnity" may be included in contracts for construction on real property and shall be included in every supply contract in excess of \$5,000 which calls exclusively for standard commercial supplies. The amendments further provide that the above-mentioned clauses shall not be used in any contract in lesser amounts, except that, as a matter of administrative convenience, the clauses need not be deleted when they are a part of a standard form being used for the contract. The clauses themselves have been revised slightly by prefixing the words "If the amount of this contract is in excess of \$5,000".

2. Section 408.102, as amended, reads as follows:

§ 408.102 *Notice and assistance.* In order that the Government may be notified of claims of infringement asserted against a Contractor or its subcontractor in connection with the performance of Government contracts, and in order that the Government may obtain necessary assistance from a contractor in the event of patent infringement litigation, the following clause shall be included in all contracts in excess of \$5,000 for supplies, construction on real property, facilities, or experimental, developmental, or research work; and shall not be included in contracts of lesser amounts, except that, as a matter of administrative con-

venience, the clause need not be deleted when it is a part of a standard form being used for the contract:

(a) If the amount of this contract is in excess of \$5,000, the Contractor agrees to report to the Contracting Officer, promptly and in reasonable written detail, each claim of patent infringement based on the performance of this contract and asserted against it, or against any of its subcontractors if it has notice thereof.

(b) In the event of litigation against the Government on account of any claim of infringement arising out of the performance of this contract or out of the use of any supplies furnished or construction work performed hereunder, the Contractor agrees that it will furnish to the Government, upon request, all evidence and information in its possession pertaining to the defense of such litigation. Such information shall be furnished at the expense of the Government, except in those cases in which the Contractor has agreed to indemnify the Government against the claim being asserted.

3. Section 408.105 (a) has been amended and, shown with the introductory text of the section, now reads as follows:

§ 408.105 Patent indemnification of Government by Contractor. In order that the Government may be protected from liability for patent infringement, a contract clause providing for appropriate indemnification shall be used in accordance with the provisions set forth below:

(a) The following clause may be included in contracts for construction on real property and shall be included in every supply contract in excess of \$5,000 which calls exclusively for standard commercial supplies; and shall not be used in any contract of lesser amounts, except that, as a matter of administrative convenience, the clause need not be deleted when it is a part of a standard form being used for the contract:

PATENT INDEMNITY

If the amount of this contract is in excess of \$5,000, the Contractor agrees to indemnify the Government and its officers, agents and employees against liability, including costs and expenses, for infringement upon any Letters Patent of the United States (except Letters Patent issued upon an application which is now or may hereafter be, for reasons of national security, ordered by the Government to be kept secret or otherwise withheld from issue) arising out of the performance of this contract or out of the use or disposal by or for the account of the Government of supplies furnished or construction work performed hereunder. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given an opportunity to present recommendations as to the defense thereof; and further such indemnity shall not apply in any one of the following situations: (1) Any infringement resulting from the addition to any such supplies of other supplies not furnished by the Contractor for the purpose of such addition; (2) any settlement of a claim of infringement made without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction;

(3) any claim of infringement arising from use or disposal outside the scope of any license limitation under which the Contractor is bound, provided that the Contractor has notified the Government of the limitation prior to first delivery under this contract; (4) any infringement necessarily resulting from changes (other than the substitution of another standard commercial part or component manufactured or supplied by the Contractor) ordered pursuant to this contract, or from specific written instructions given by the Contracting Officer directing a manner of performing the contract not normally utilized by the Contractor.

4. Section 408.104 *Classified contracts* has been amended by deletion of paragraph (b) in the "clause" and insertion, in lieu thereof, of the following paragraph (b):

(b) While and so long as the subject matter of this contract is classified "Confidential", the Contractor agrees to furnish to the Contracting Officer, at the time of or prior to filing or causing to be filed a patent application disclosing any of said subject matter, a copy of such application for determination whether, for reasons of national security, such application should be kept secret or the issuance of a patent thereunder otherwise delayed, under pertinent statutes or regulations; and the Contractor agrees to observe any instructions of the Contracting Officer in this regard.

5. Section 408.203 *Material in which no adverse copyright should be established* has been amended by the deletion of paragraph (c) and insertion of the following paragraph (c) in lieu thereof:

(c) Surveys of Government establishments.

(Sec. 1, 54 Stat. 712, as amended, sec. 201, 55 Stat. 839, 62 Stat. 20; 50 U. S. C. App. 1171, 611, 41 U. S. C. 151-161; E. O. 9801, 6 F. R. 6787, as amended by E. O. 9296, 8 F. R. 1429; 3 CFR, 1943 Cum. Supp.)

T. P. PIKE,
Assistant Secretary of Defense
(Supply and Logistics).

[F. R. Doc. 54-7115; Filed, Sept. 10, 1954;
8:46 a. m.]

PART 410—FEDERAL, STATE AND LOCAL TAXES

MISCELLANEOUS AMENDMENTS

Part 410, Federal, State and Local Taxes, has been amended to conform this subchapter to the Excise Tax Reduction Act of 1954 (68 Stat. 37), as follows:

1. Section 410.001, *Effective date of part* has been deleted and § 410.000, *Scope of part* substituted therefore, as follows:

§ 410.000 Scope of part. This part deals with certain Federal Taxes imposed by the Internal Revenue Code upon certain supplies and services procured by any Department; exemptions from such Federal taxes; policy with respect to obtaining exemption from State and local taxes; and contract clauses required or authorized for insertion in contracts.

2. Sections 410.101 through 410.104, 410.107 and 410.108 are amended to read as follows:

§ 410.101 Manufacturers' excise taxes. Chapter 29 of the Internal Revenue Code, as implemented by Treasury Regulations 44 and 46, imposes a manufacturers' excise tax upon various types of supplies, enumerated in §§ 410.101-1 to 410.101-14, sold by the manufacturer, producer, or importer. In general, this tax is based in each instance on sales price (including any charges for packaging, but excluding incidental charges such as transportation, installation, etc.) and attaches at the time when title passes from the seller. The lease of supplies is considered a sale for purposes of this tax. Jewelry and luggage subject to a retailers' excise tax covered in § 410.102-1 and § 410.102-4 are not subject to a manufacturers' excise tax.

§ 410.101-1 Tires and inner tubes. A tax is imposed with respect to sales of the following supplies at the indicated rates:

(a) Tires wholly or in part of rubber, including synthetic or substitute rubber (exclusive of metal rims or rim bases) 5 cents a pound on total weight;

(b) Inner tubes (for tires) wholly or in part of rubber, including synthetic or substitute rubber—9 cents a pound on total weight.

§ 410.101-2 Automotive equipment. A tax is imposed with respect to sales of the following supplies at the indicated rates:

(a) Chassis and bodies (including parts or accessories sold therewith) of the following types of automotive equipment (excluding tractors and motor-driven machines and handling equipment used on premises of factories and railway stations):

(1) Automobile trucks and buses—8 percent through March 31, 1955, 5 percent thereafter;

(2) Truck and bus trailers and semi-trailers—8 percent through March 31, 1955, 5 percent thereafter;

(3) Trailers and semi-trailers suitable for use in connection with passenger automobiles—10 percent through March 31, 1955, 7 percent thereafter;

(4) Other automobiles—10 percent through March 31, 1955, 7 percent thereafter;

(b) Tractors (including parts or accessories sold therewith) of the kind chiefly used for highway transportation in combination with a trailer or semi-trailer—8 percent through March 31, 1955, 5 percent thereafter;

(c) Motorcycles (including parts or accessories sold therewith)—10 percent through March 31, 1955, 7 percent thereafter;

(d) Parts or accessories (such as spark plugs, storage batteries, leaf springs, coils, timers, and tire chains suitable for use in connection with any of the supplies enumerated in paragraphs (a), (b), and (c) of this section; but excluding tires, inner tubes, and automobile radios, and also excluding parts and accessories sold to a manufacturer of any of the supplies enumerated in paragraphs (a), (b), and (c) of this section: *Provided*, That an appropriate certificate of the purchaser is given to the seller stating that the purchaser is a manufac-

turer of such supplies) sold for any of the supplies enumerated in paragraphs (a), (b), and (c) of this section—8 percent through March 31, 1955, 5 percent thereafter. Where a manufacturer sells tax-paid tires, inner tubes, or automobile radios on or in connection with, or with the sale of, any of the supplies enumerated in paragraphs (a), (b), and (c) of this section, he may take appropriate credit against the tax due on his sale of such automotive equipment.

§ 410.101-3 Radio, television, and musical equipment. A tax of 10 percent is imposed with respect to sales of the following supplies (including, except in the case of musical instruments, parts, or accessories sold therewith):

(a) Radio receiving sets, automobile radio receiving sets, television receiving sets, automobile television receiving sets, phonographs, and combinations of any of the foregoing;

(b) Chassis, cabinets, tubes, power supply units, speakers, amplifiers, antennae of the "built-in" type, and phonograph mechanisms, suitable for use in connection with, or as component parts of, any of the supplies enumerated in paragraph (a) of this section, whether or not primarily adapted for such use;

(c) Phonograph records;

(d) Musical instruments.

§ 410.101-4 Refrigerating, quick-freezing and air-conditioning equipment. A tax is imposed with respect to sales of the following supplies (including parts or accessories sold therewith) at the indicated rates:

(a) Household type refrigerators (for single or multiple cabinet installations) having, or designed for use with, a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline; household type units for the quick-freezing or frozen storage of foods, operated by electricity, gas, kerosene, or gasoline; and combinations of such household type refrigerators and units—5 percent;

(b) Cabinets, compressors, condensers, condensing units, evaporators, expansion units, absorbers, and controls for, or suitable for use as parts of or with, the supplies described in paragraph (a) of this section, except when sold as component parts of complete refrigerators or refrigerating or cooling apparatus or quick-freeze units—5 percent;

(c) Self-contained air-conditioning units—10 percent.

§ 410.101-5 Sporting goods. A tax of 10 percent is imposed with respect to sales of sporting goods and equipment.

§ 410.101-6 Electric, gas, and oil appliances. A tax of 5 percent is imposed with respect to sales of electric, gas, and oil appliances such as fans, heaters (other than electric air furnaces), cooking appliances, etc.

§ 410.101-7 Photographic apparatus. A tax is imposed with respect to sales of the following supplies at the indicated rates:

(a) Cameras and camera lenses—10 percent. (This tax does not apply to (1) X-ray cameras, (2) cameras weighing more than four pounds exclusive of lenses and accessories, (3) still camera

lenses having a focal length of more than one hundred and twenty millimeters, or (4) motion picture camera lenses having a focal length of more than thirty millimeters.)

(b) Unexposed photographic film in rolls, including motion picture film—10 percent. (This tax does not apply to (1) X-ray film (2) film more than one hundred and fifty feet in length, or (3) film more than twenty-five feet in length and more than thirty millimeters in width or (4) unperforated microfilm.)

§ 410.101-8 Business and store machines. A tax of 10 percent is imposed with respect to sales of business and store machines, excluding cash registers of the types used in registering over-the-counter retail sales.

§ 410.101-9 Electric light bulbs and tubes. A tax of 10 percent is imposed with respect to sales of electric light bulbs and tubes, excluding supplies taxable under any other manufacturers' excise tax.

§ 410.101-10 Firearms, shells, and cartridges. A tax of 11 per centum is imposed, with respect to sales of firearms (except pistols and revolvers, as to which see § 410.103), shells and cartridges.

§ 410.101-11 Matches. A tax of 2 cents per 1,000 is imposed with respect to sales of matches, but not more than 10 per centum of the price for which sold, except that in the case of fancy wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, the tax is 5½ cents per 1,000 matches.

§ 410.101-12 Fountain and ball point pens, mechanical pencils, and mechanical lighters for cigarettes, cigars, and pipes. A tax of 10 per centum is imposed with respect to sales of fountain and ball point pens, mechanical pencils, and mechanical lighters for cigarettes, cigars, and pipes.

§ 410.101-13. Gasoline. A tax of 2 cents a gallon is imposed with respect to sales of gasoline by the producer or importer thereof, or by any producer of gasoline through March 31, 1955; thereafter the applicable tax will be 1½ cents a gallon. The term "gasoline" means all products commonly or commercially known or sold as gasoline (including casing head and natural gasoline). Sales of lubricating oils to a manufacturer or producer for resale by him are exempt from tax. Products taxable as gasoline are not taxable under section 2450 of the Internal Revenue Code described in § 410.108.

§ 410.101-14 Lubricating oils. A tax of 6 cents a gallon is imposed with respect to lubricating oils, except that in the case of cutting oils, the tax shall not exceed 10 per centum of the price for which so sold. The term "cutting oils" means oils used primarily in cutting and machining operations (including forging, drawing, rolling, shearing, punching, and stamping) on metals, and known commercially as cutting oils.

§ 410.102 Retailers' excise taxes. Chapters 9A and 19 of the Internal Revenue Code, as implemented by Treasury

Regulations 51, impose a retailers' excise tax upon various types of supplies, enumerated in the following paragraphs of this § 410.102, sold at retail. Such supplies, when sold to the Government for use or consumption, are considered to be sold at retail. In general, this tax is based in each instance on sales price (including any charges for packaging, but excluding incidental charges such as transportation, installation, etc.) and attaches at the time when title passes from the seller. The lease of supplies is considered a sale for purposes of this tax. In the case of any supplies classifiable under more than one retailers' excise tax, only one tax on such supplies is imposed; and where the tax rates differ, the supplies are subject to tax at the highest rate.

§ 410.102-1 Jewelry, etc. A tax of 10 percent is imposed with respect to sales of all supplies commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semi-precious stones, and imitations thereof; supplies made of, or ornamented, mounted or fitted with precious metals or imitations thereof; watches and clocks, and cases and movements thereof; gold, gold-plated, silver or sterling flatware or hollow ware, and silver-plated hollow ware; opera glasses, lorgnettes; marine glasses, field glasses, and similar optical instruments, if portable. The tax does not apply to religious articles, surgical instruments, watches designed especially for use by the blind, frames or mountings for eyeglasses, or devices prescribed for use in connection with the uniforms of the Armed Services.

§ 410.102-2 Furs. A tax of 10 percent is imposed with respect to sales of supplies made of fur on the hide or pelt, and sales of supplies of which such fur is the component of chief value—that is, a value three times that of the next most valuable component. The tax applies although the pelt is furnished by the customer.

§ 410.102-3 Toilet goods. A tax of 10 percent is imposed with respect to sales of perfumes, cosmetics, hair dressings, and any other similar toilet supplies.

§ 410.102-4 Luggage. A tax of 10 percent is imposed with respect to sales of the following supplies (including fittings or accessories sold therewith):

(a) Trunks, suitcases, hat boxes for use of travelers, brief cases made of leather or imitation leather, and any other similar items of luggage;

(b) Purses, handbags, wallets, and card, pass, and key cases;

(c) Toilet cases and other bags and kits (without regard to size, shape, construction, or material) for use in carrying toilet articles or wearing apparel.

§ 410.103 Excise tax on pistols and revolvers. Chapter 25A of the Internal Revenue Code, as implemented by Treasury Regulations 47, imposes an excise tax of 10 percent upon pistols and revolvers sold or leased by the manufacturer, producer, or importer.

§ 410.104 Tax on transportation of persons. Chapter 30C of the Internal

Revenue Code, as implemented by Treasury Regulations 42F, imposes a tax of 10 percent (a) upon the amount paid within the United States for the transportation of persons by rail, motor vehicle, water, or air, within or without the United States, and (b) upon the amount paid without the United States for the transportation of persons by rail, motor vehicle, water, or air which begins and ends in the United States, and for seating or sleeping accommodations in connection with such transportation under paragraphs (a) and (b) of this section: *Provided*, That this tax shall not apply with respect to any part of such transportation which is outside the northern portion of the Western Hemisphere. In computing such tax, there is excluded (1) separable and itemized charges other than those for transportation of a person, (2) charges for transportation of freight that includes also transportation of caretakers or messengers for which no specific charge as such is made, and (3) charges not exceeding 35 cents, certain commutation tickets, and charges for transportation by motor vehicles with seating capacity of less than 10 persons and not operated on an established line.

§ 410.107 Tax on communication facilities. Chapter 30B of the Internal Revenue Code, as implemented by Treasury Regulations 42E, imposes a tax upon the following types of communication facilities at the indicated rates:

(a) Telephone and radio telephone messages paid for within the United States (excluding any such messages for which the toll charge is 24 cents or less)—10 percent;

(b) Domestic or international telegraph, cable, and radio dispatches and messages paid for within the United States—10 percent;

(c) Leased wire, teletypewriter, or talking circuit special services (excluding any amount paid for such services used exclusively in rendering a service taxable under paragraph (d) of this section)—10 percent;

(d) Wire and equipment service (including stock quotation and information service, burglar alarm or fire alarm service, and all other similar services except services taxable under paragraph (c) of this section)—8 percent;

(e) Local telephone service and other telephone service not taxable under paragraphs (a) to (d) of this section (excluding amounts paid for the installation of instruments, wires, poles, switchboards, apparatus, and equipment)—10 percent.

§ 410.108 Excise tax on special fuels. Chapter 20 of the Internal Revenue Code, as implemented by Treasury Regulations 119, imposes an excise tax of 2 cents per gallon through March 31, 1955 and 1½ cents per gallon thereafter on certain special fuels (other than any product taxable under section 3412 of chapter 29 of the Internal Revenue Code and described in § 410.101-13) as indicated:

(a) Diesel Fuel—any liquid—

(1) Sold by any person to an owner, lessee, or other operator of a diesel-

powered highway vehicle, for use as a fuel in such vehicle, or

(2) Used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (1) of this paragraph.

(b) Special Motor Fuels—benzol, benzene, naphtha, liquid petroleum gas, or any other liquid (other than kerosene, gas oil, or fuel oil)—

(1) Sold by any person to an owner, lessee, or other operator of a motor

vehicle, motorboat, or airplane for use as a fuel for the propulsion of such motor vehicle, motorboat, or airplane; or

(2) Used by any person as a fuel for the propulsion of a motor vehicle, motorboat, or airplane unless there was a taxable sale of such liquid under subparagraph (1) of this paragraph.

3. Section 410.199 *List of supplies and services subject to Federal excise taxes*, is amended to read as follows:

§ 410.199 List of supplies and services subject to Federal excise taxes.

Supplies and services	Internal Revenue Code Section (26 U. S. Code)	Treasury Regulations Number and Section	ASPR Paragraph
Automotive equipment.....	3403	46-316.50	410.101-2
Business and store machines.....	3406 (a) (6)	46-316.140	410.101-5
Communication facilities.....	3405	42-130.30	410.107
Electric, gas, and oil appliances.....	3406 (a) (3)	46-316.110	410.101-6
Electric light bulbs and tubes.....	3406 (a) (10)	46-316.180	410.101-9
Firearms, shells, and cartridges.....	3407	46-316.80	410.101-10
Fountain and ball-point pens, mechanical pencils, and lighters.....	3408	46-316.196	410.101-12
Furs.....	2101	51-320.40	410.102-2
Gasoline.....	3412	44-314.30	410.101-13
Jewelry, etc.....	2400	51-320.30	410.102-1
Luggage.....	1651	51-320.60	410.102-4
Matches.....	3409	44-314.50	410.101-11
Oil, lubricating.....	2413	44-314.40	410.101-14
Photographic apparatus.....	3406 (a) (4)	46-316.120	410.101-7
Pistols and revolvers.....	2700	47	410.103
Radio, television, and musical equipment (see also 410.203 and 410.204 for communication, detection, or navigation receivers and components).....	3404	46-316.15	410.101-3
Refrigerating and air-conditioning equipment.....	3405	46-316.70	410.101-4
Special fuels.....	2450	119-321.10	410.108
Sporting goods.....	3406 (a) (1)	46-316.90	410.101-5
Tires and inner tubes.....	3400	46-316.30	410.101-1
Toilet goods.....	2402	51-340.50	410.102-3
Transportation of oil by pipeline.....	3460	42-130.20	410.106
Transportation of persons.....	3460	42-130.50	410.104
Transportation of property.....	3475	113-143.0	410.105

4. Sections 410.204 and 410.205 have been revised to read as follows:

§ 410.204 Communication, detection, or navigation receivers and components thereof.

§ 410.204-1 Receivers. Pursuant to the authority of section 3404 (a) of the Internal Revenue Code and applicable Treasury Regulations, exemption is available for manufacturers' excise taxes with respect to sales to the United States for its exclusive use of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installation. To establish the right to exemption from tax with respect to such sales, the applicable Treasury Regulation requires that the manufacturer (a) have in his possession a copy of the prime contract, subcontract, or Government purchase order under which the sale to the United States is made by him directly or through the Prime Contractor or (b) in the absence of such contract or purchase order, obtain from the Contracting Officer and retain in his possession a properly executed exemption certificate in the form prescribed by the applicable Treasury Regulation. This exemption shall be made use of by means of purchase on a tax-exclusive basis, only when, and in accordance with procedures prescribed by each respective Department, it is advantageous to make use of such exemption.

§ 410.204-2 Components. Pursuant to the authority of section 3404 (b) of the Internal Revenue Code and applicable Treasury Regulations, exemption

is available from manufacturers' excise taxes with respect to sales by the manufacturer of any component named in such section for use by his vendee as material in the manufacture or production of or as a component part of a communication, detection, or navigation receiver if such receiver is to be sold by such vendee to the United States for its exclusive use. To establish the right to exemption from the tax with respect to such sales, the manufacturer must obtain from his vendee prior to or at the time of the sale, and retain in his possession, a certificate in the form prescribed by the applicable Treasury Regulation showing that the article is to be used by his vendee for the purpose mentioned above. This exemption shall be made use of by means of purchase on a tax-exclusive basis, only when, and in accordance with procedures prescribed by each respective Department, it is advantageous to make use of such exemption.

§ 410.205 Supplies sold for further manufacture. Pursuant to the authority of section 3442 of the Internal Revenue Code and applicable Treasury Regulations, exemption is available from manufacturers' excise taxes with respect to sales of any supplies other than tires, inner tubes, and automobile radios (a) for use in the manufacture or production of taxable supplies or as component parts thereof, or (b) for resale for such use, which exemption is obtainable by the manufacturer and requires no action by the Contracting Officer. The contract price for such supplies purchased by any Department shall not include an amount for any manufacturers' excise

tax from which an exemption is available to the manufacturer.

(Sec. 1, 54 Stat. 712, as amended, sec. 201, 55 Stat. 839, 62 Stat. 20; 50 U. S. C. App. 1171, 611, 41 U. S. C. 151-161; E. O. 9001, 6 F. R. 6787, as amended by E. O. 9296, 8 F. R. 1429; 3 CFR, 1943 Cum Supp.)

T. P. PIKE,
Assistant Secretary of Defense
(Supply and Logistics).

[F. R. Doc. 54-7116; Filed, Sept. 10, 1954;
8:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1880]

PART 254—SALE, GRANT, OR LEASE OF PUBLIC LANDS FOR RECREATION AND PUBLIC PURPOSES

Part 254 is completely revised as follows effective 30 days after approval hereof by the Secretary of the Interior:

- Sec.
- 254.1 Statutory authority.
- 254.2 Who may apply.
- 254.3 Lands subject to disposition.
- 254.4 Purposes for which lands may be acquired.
- 254.5 General limitations and conditions on dispositions.
- 254.6 Classifications.
- 254.7 Applications.
- 254.8 Purchase price and lease rentals.
- 254.9 Lease provisions.
- 254.10 Publications; protests; patents; transfers.
- 254.11 Applications for transfer, change of use, and for renewal of leases.
- 254.12 Lands patented under prior acts; applications for transfer and change of use.
- 254.13 Cooperation with the National Park Service.
- 254.14 Minerals; timber.
- 254.15 Appeals.

AUTHORITY: §§ 254.1 to 254.14 issued under 44 Stat. 741, 68 Stat. 173; 43 U. S. C. 869.

§ 254.1 *Statutory authority.* The act of June 14, 1926 (44 Stat. 741), as amended by the act of June 4, 1954 (68 Stat. 173; 43 U. S. C. 869), authorizes the Secretary of the Interior, under specified conditions, to lease or sell lands for recreational and public purposes. This legislation is referred to as "the act" in these regulations in this part.

§ 254.2 *Who may apply.* The following are qualified to make applications under the act: States and the Territory of Alaska; Federal, State, and Territory of Alaska instrumentalities, and political subdivisions, including counties and municipalities; and nonprofit associations and nonprofit corporations.

§ 254.3 *Lands subject to disposition.* The act is applicable to any public domain lands except (a) lands withdrawn or reserved for national forests, national parks and monuments, and national wildlife refuges; (b) Oregon and California revested railroad grant lands and Coos Bay reconveyed wagon-road grant lands; and (c) Indian lands and lands set aside or held for use by or the benefit of Indians.

§ 254.4 *Purposes for which lands may be acquired.* (a) Qualified applicants are permitted by the act to acquire available lands for use for any public purposes for which they are authorized by their creating authority to hold lands. Nonprofit associations and nonprofit corporations are permitted, in addition, to acquire lands for use for any recreational purpose consistent with their creating authority.

(b) No applicant can secure lands under the act, however, for any use authorized under any other public law. This restriction does not apply to the use of lands for residence, business, recreation, and community-site purposes authorized by the act of June 1, 1938 (52 Stat. 609; 43 U. S. C., 682a, Part 257 of this chapter) as amended.

§ 254.5 *General limitations and conditions on dispositions.* (a) Applicants will not be granted title to or use of land under the act unless and until (1) the land is first classified as suitable for the purpose sought and not needed for any other public purpose or is not more valuable and suitable for some other use, including the development of power; and, (2) if the land is under the jurisdiction of any agency or instrumentality outside the Department of the Interior, that agency or instrumentality consents to the proposed disposition.

(b) Applicants will not be granted title to or use of land under the act except for an established or definitely proposed project. A definitely proposed project is a project which has been authorized by competent authority irrespective of whether or not it has been financed and otherwise fully implemented, providing that there exists the probability that it will be fully implemented within a reasonable time.

(c) No applicant can receive under the act patent for more than 640 acres in any one calendar year.

(d) No patent will be issued under the act unless and until the land is officially surveyed.

(e) All leases and patents issued under the act will reserve to the United States all minerals, together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

(f) Municipal corporations cannot secure land under this act if it is not within convenient access to the municipality and within the same State or Territory as the municipality. Other qualified applicants cannot secure land outside of their political boundaries or other area of jurisdiction.

§ 254.6 *Classifications.* (a) Lands in Alaska classified under the act and lands in the States classified pursuant to the act under section 7 of the act of June 28, 1934 (48 Stat. 1272, 43 U. S. C. 315f), as amended, will be segregated from all appropriations, including locations under the mining laws, except as provided in the order of classification or in any modification or revision thereof.

(b) Classifications made pursuant to the act on the motion of the Government for which no application is filed within

18 months after issuance will be vacated and the land restored to its former status.

§ 254.7 *Applications.* (a) Applicants under the act must submit, in triplicate, to the appropriate office of the Bureau of Land Management an application on Form 4-1267, executed in accordance with the instructions on the form. Each application must be accompanied by (1) three copies of a statement describing the proposed use of the lands, showing that the application involves an established or definitely proposed project, and giving as much detail concerning the plan of development and improvement of the project as is necessary to describe the project and its purpose adequately and the proposed disposition of any revenues to be realized from it and (2) a filing fee of \$10.

(b) The acreage applied for in any one application for patent cannot exceed 640 acres and no more than 640 acres will be conveyed to any one grantee in any one calendar year.

§ 254.8 *Purchase price and lease rentals.* (a) Conveyances under the act for historic monument purposes will be made without any monetary consideration.

(b) Sales to nonprofit associations or nonprofit corporations for other than historic monument purposes will be made at prices fixed through appraisal of the fair market value of the land, taking into consideration the purposes for which the lands will be used.

(c) All other sales will be made at prices fixed through (1) appraisal of the fair market value of the lands or otherwise, taking into consideration the purpose for which the land will be used or (2) any method which considers the purpose for which the land will be used.

(d) Annual rentals under leases will be fair and reasonable and will be based on the value of the lands as determined by the requirements of paragraphs (b) and (c) of this section.

(e) A patent applicant, when the land has been appraised, will be required to pay the full purchase price before the patent will be issued. The rental under a lease shall be payable annually in advance. Upon appraisal of the land, a lease applicant will be required to pay the first year's rental before the lease will be issued. Upon the voluntary relinquishment of a lease before the expiration of its term, any rental paid for the unexpired portion of the term will be returned to the lessee upon a proper application for repayment to the extent that the amount paid covers a full lease year or years of the remainder of the term of the original lease.

§ 254.9 *Lease provisions.* (a) The term of leases under the act will be fixed by the authorized official but will not exceed 20 years. Leases will be renewable at the discretion of such official.

(b) Leases will be issued on Form 4-1270 and will contain the usual terms and conditions required by law, public policy, and, insofar as possible, by Department of the Interior procedure.

(c) Leases will contain such terms and conditions which the signing officer or the administering agency considers necessary for the proper development of the land, for the protection of Federal property, and for the protection of the public interests.

(d) Leases will be terminable by the authorized official upon failure of the lessee to comply with the terms of the lease, upon a finding that all or part of the land is being devoted to other than the use authorized by the lease, or upon a finding that the land has not been used by the lessee for the purpose specified in the lease for any consecutive period specified by the authorized official but not more than 5 years or less than 2 years.

(e) Leases will not be transferable except with the consent of the proper official. Transferees must meet all the qualifications of applicants under the act and will be subject to all the terms and conditions of the regulations in this part.

§ 254.10 Publications; protests; patents; transfers. (a) Applicants for patents under the act will be required upon demand to publish once a week for four consecutive weeks in accordance with § 106.18 of this chapter, at their expense, in a designated newspaper and in a designated form, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of patent under the applications. A protestant must serve on the applicant a copy of the objections and furnish evidence of such service.

(b) Such applicants must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

(c) All patents under this act will contain a clause providing that if the patentee or its successor attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without consent of competent authority, title shall revert to the United States. This clause will terminate 25 years after issuance of the patent. Transferees must meet all the qualifications of applicants under the act and will be subject to the terms and conditions of the regulations in this part.

§ 254.11 Applications for transfer, change of use, and for renewal of leases. (a) Applications under the act for permission to add to, or to change the use specified in a lease or patent, applications to transfer title or lease to a third party, and applications for renewal of a lease must be filed in triplicate with the appropriate office of the Bureau of Land Management. No form is specified but the matter should be fully explained by the applicant.

(b) Applications for permission to add to or to change use must be accompanied by three copies of the showing required by § 254.7 (a) (1).

(c) Applications for approval of transfers of title or lease must be accompanied by three copies of Form 4-1267 executed by the proposed transferee in accordance with § 254.7.

(d) Applications for removal of leases must be accompanied by three copies of a statement showing, in detail sufficient to describe the situation adequately, the past use of the lands and the proposed use after renewal of the lease.

(e) Each application must be accompanied by a filing fee of \$10.

(f) Prior to approval of an application filed under paragraph (b) of this section the land may be reappraised in accordance with § 254.8 and the beneficiary required to make such payments as are found justified by such reappraisal.

§ 254.12 Lands patented under prior acts; applications for transfer and change of use. (a) Applications under section 4 of the act for permission to transfer title or to change the use in respect to land covered by any patent issued prior to June 4, 1954, must be submitted in conformance with § 254.11.

(b) The land, however, will not be subject to reappraisal and the beneficiary will not be required to make any payment other than the filing fee.

§ 254.13 Cooperation with the National Park Service. In furtherance of the purposes of the act of June 23, 1936 (49 Stat. 1894; 16 U. S. C. 17k), the National Park Service will review and make recommendations on all applications for recreational purposes submitted by States and the Territory of Alaska or their political subdivisions.

§ 254.14 Minerals; timber. (a) Any minerals subject to the leasing laws reserved to the United States in the lands patented or leases under the terms of the act may be disposed of to any qualified person under applicable laws and regulations. Until rules and regulations are issued, other minerals are not subject to disposition or to prospecting except by an authorized Federal agency.

(b) A lessee under the act will not be permitted to cut timber from the leased lands without prior permission from the appropriate officer.

§ 254.15 Appeals. An appeal pursuant to the rules of practice, Part 221 of this chapter, may be taken from the decision of the authorized officer of the Bureau of Land Management.

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

SEPTEMBER 3, 1954.

[F. R. Doc. 54-7122; Filed, Sept. 10, 1954;
8:47 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 10582; FCC 54-1118]

[Rules Amdt. 2-20]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

FREQUENCY ALLOCATIONS

In the matter of amendment of Part 2 of the Commission's rules and regulations concerning the allocation of fre-

quencies in the bands 4187-4238 kc, 6280.5-6357 kc, 8374-8476 kc, 12561-12714 kc, 16748-16952 kc and 22270-22400 kc; Docket No. 10582.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 1st day of September 1954;

The Commission having under consideration its proposal in the above entitled matter to make the bands indicated available only for cargo ship radiotelegraph working purposes in accordance with the Geneva Agreement (1951); and

It appearing, that in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, notice of proposed rule making in this matter which made provision for the submission of written comments by interested parties, was duly published in the FEDERAL REGISTER on July 17, 1953 (18 F. R. 4199) and that the period for the filing of comments has now expired; and

It further appearing, that no comments were filed in this matter; and

It further appearing, that the public interest, convenience, and necessity will be served by the amendment herein ordered, the authority for which is contained in sections 303 (c), (f) and (r) of the Communications Act of 1934, as amended;

It is ordered, That, effective October 11, 1954, Part 2 of the Commission's rules is amended as set forth below.

(Sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Delete the present wording of footnote 2 to § 2.104 (a) (3) (i) and (iii) and in lieu thereof substitute new footnote 2 as follows:

*The provisions of this section, except for frequencies authorized to aircraft for communication with foreign stations, do not apply for the authorization of frequencies within the following frequency bands:

Kc	Kc
2035-2107	9040-9700
3500-4063	9775-10,005
4177-4238	11,000-11,100
5450-5480	11,700-11,900
5500-5550	12,531-12,714
6000-6200	14,000-15,010
6265.5-6357	15,100-15,350
7000-7300	16,708-16,952
8354-8476	19,990-25,000

[F. R. Doc. 54-7151; Filed, Sept. 10, 1954;
8:52 a. m.]

[Docket No. 11092; FCC 54-1123]

[Rules Amdt. 3-19]

PART 3—RADIO BROADCAST SERVICES BROADCASTS BY CANDIDATES FOR PUBLIC OFFICE

In the matter of amendment of the rules governing broadcasts by candidates for public office: AM, § 3.190; FM, § 3.290; TV, § 3.657; Docket No. 11092.

1. The Commission has under consideration its notice of proposed rule making issued June 25, 1954 (FCC 54-795) proposing to amend §§ 3.190, 3.290 and 3.657 of the Commission's rules and regulations which relate to the rates charged by broadcast stations for broadcasts made by candidates for public office. The purpose of the proposed amendments is to implement section 315 of the Communications Act, as revised, to insure that candidates for public office are afforded the opportunity to use the facilities of broadcast stations at a rate no higher than the stations would charge commercial advertisers under comparable circumstances. Interested parties were invited to submit written comments on the proposal; and in response, the California Inland Broadcasting Company, Fresno, California; the National Association of Radio and Television Broadcasters; the Aiken Electronics Adv. Corporation, Aiken, South Carolina, and 34 other parties set forth below; the Tennessee Valley Broadcasting Co., Decatur, Alabama, and 35 other parties set forth below and the Southern Idaho Broadcasting and Television Company, Twin Falls, Idaho, have filed comments. While none of the parties express opposition to the proposed amendments, they do recommend that they be modified or clarified in some respects. The recommendations of the parties are considered separately below.

2. The comments filed by California Inland Broadcasting Company concern the concept of national, regional and local rates as used in the multiple rate structures of stations in the broadcasting industry. It contends that the type of business of a commercial advertiser, i. e., manufacturer, distributor, retailer, rather than the area in which he does business, is, in many cases, the important factor in the determination of which rate shall apply to a particular commercial account and that, consequently, the area encompassed by an advertiser's business may have no bearing on the rate charged. It therefore envisions that stations may have difficulty in carrying out the proposed provisions of paragraph (c) (1), which base the rate to be charged a political candidate upon the rate charged a commercial advertiser whose business is confined to the same area as the particular office for which a candidate is running, and suggests that these provisions be clarified by an amendment or in the accompanying report at the time of adoption. It recommends that paragraph (c) (1) be amended to specify that the national rate shall apply to all political candidates whose names appear on the ballot in more than one county, and the local rate to candidates whose names appear on the ballot in only one county. We cannot concur in California Inland's proposed amendment. For, while it might be advantageous from the standpoint of certainty, this would establish a purely artificial test for determining the applicable rate which in specific cases might result in charging candidates rates not comparable to those charged commercial advertisers. We believe the comment does, however,

point out an ambiguity in the existing proposal and to obviate this we have modified paragraph (c) (1) of the rates to provide that a candidate, in each case, shall be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. We believe this revision will enable station licensees to determine which of its commercial rates is generally charged in the area encompassed by the office for which a particular candidate is running and to make a good faith judgment in the case of each individual candidate as to the applicable commercial rate to be charged.

3. The comments of the National Association of Radio and Television Broadcasters (NARTB) and Southern Idaho Broadcasting and Television Company are both directed to the question of how discount rates are to be calculated under the proposed rule in circumstances where time has been purchased by or for one candidate as part of a bulk purchase of time which has resulted in making the cost to such candidate less than if he had purchased the time actually used by him on an individual basis. The NARTB comment is directed to paragraph 5 of the notice of proposed rule making which indicated that where a group of candidates have pooled their resources to purchase a block of time at discount rates, individual opponents of such candidates are entitled to secure the same rates as those charged the individual member of the group against whom they are competing. NARTB urges that this interpretation of the rates be withdrawn as being unrelated to the question of charging candidates rates comparable to those charged other commercial users of time, and because such an interpretation allegedly would disrupt "the historic pattern of purchase and sale of broadcast facilities to qualified candidates." Southern Idaho apparently does not take issue with the Commission's views as to the situation where time has been purchased on a group or pooled basis by several candidates, but raises the question as to the applicability of this principle where the block of time is purchased by a political committee or similar group, and individual candidates using part of this time are only charged a pro rata share of the total cost. It is contended that it would be grossly unfair to stations and purchasers of large segments of time if section 315 and our rules are interpreted as entitling the opponents of the individual candidates to the same reduced rate which they paid by reason of their connection with the committee, in the event such opponents were unwilling to purchase a segment of time to which the same discount given the Committee applies. We believe that the answer to both of these questions becomes apparent when it is recognized that the entire scheme of section 315 of the act is that opposing legally qualified candidates for a particular public office are, as a matter of individual right, entitled to equal opportunities in the use of broadcast facilities.

This does not mean that they must be given equal time, or even that they must be charged the same rates if, though the station makes the opportunity available to all, only some of the competing candidates choose to purchase enough time to take advantage of available discount rates. But we think it clear that the individual equality among competing candidates can only be achieved if any one candidate, by doing and spending no more than his individual opponent, can secure equal air time. To provide otherwise, as the NARTB and Southern Idaho Broadcasting and Television have suggested, would substitute equality among groups or political parties for the criterion of individual equality among candidates. Whatever we may think of this as an abstract question of policy, it is not what we understand Congress intended in section 315.

4. Finally, Southern Idaho also suggests that the use of the words "equal terms" in the last sentence of the proposed subparagraph (c) (1) might be misconstrued as requiring equal rates regardless of any differences in the amount of time purchased by individual candidates. It suggests that the language "upon terms comparable to those charged for commercial advertisers" be substituted. However, we do not believe such a misconception is possible. As set forth above, it is clear that while discounts offered to commercial advertisers must be afforded as well to individual candidates for public office, candidates can secure such discounts only by purchase of the requisite amount of time. The suggested substituted language is, in our opinion, less appropriate, since its use might lead to a construction that stations could not afford discounts to political candidates on a non-discriminatory basis over and beyond those offered commercial advertisers—a prohibition not intended by the enactment of the new section 315 (b) of the act.

5. Tennessee Valley Broadcasting Co. and 35 other broadcast licensees maintain that broadcast stations sell no time or services "comparable" to that sold political candidates since the Communications Act prohibits stations from censoring material broadcast by political candidates and thereby exposes station licensees to liability for slanderous material broadcast by political candidates. It is also argued that nothing in the act expressly requires a station to charge a political candidate the same rate as a commercial advertiser under any circumstances. They urge that if candidates are to be free from all restraint as to their broadcasts, they should be required to indemnify or insure stations against any loss that may be suffered by a station because of their broadcasts, or waive their rights under the law so as to permit stations to censor their program material. They also suggest the proposed rules be revised to state specifically that stations may charge candidates for time used to make recordings, for use of recording machines, equipment, studio facilities, etc. We cannot agree with these suggestions. We believe that the legislative history of section 315 (b) of the Communica-

tions Act makes clear that Congress, although it was fully aware of the fact that licensees could not censor political broadcasts, expressly intended that neither this nor any other factor should be used as an excuse for charging higher rates for political broadcasts than for other commercial programs. With respect to the suggestion that stations should be specifically authorized to charge candidates for making use of recordings, recording apparatus or other equipment, etc., we believe it is clear that Congress intended political candidates may be charged such special fees if, but only if, such charges were also applied to other users of the station's facilities. Nothing in the rule as drafted or here finalized would preclude a station from charging a political candidate additional fees under such circumstances. Nor are we authorized under section 315 of the Communications Act to provide that stations may require candidates to indemnify or insure stations against any loss a station might suffer because of the contents of a candidate's broadcasts, or to waive their rights so as to permit censorship of such broadcasts. In fact, we are extremely doubtful whether it would be lawful under section 315 (b) of the Communications Act for a station to impose upon candidates for public office such an obligation to provide bonds or insurance unless they also require other users of their stations to post similar indemnity bonds or insurance.

6. Aiken Electronics Adv. Corporation and 34 other broadcasting companies filed comments suggesting one change in the last sentence of subparagraph (c) (1) of the proposed rules, which provides that "All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office." They recommend that the sentence be clarified by adding to the end thereof the following proviso: "Provided, however, That this regulation shall not be construed as requiring a licensee to allot time in such amount for political broadcasts as would be in excess of that which, in the licensee's judgment, would be consistent with balanced programming."

Without such a proviso, they submit, the sentence might be construed as a directive to licensees to sell enough time to political candidates so that some form of quantity discount rate is brought into play. We do not believe the sentence lends itself to that construction. Whether a quantity discount rate is brought into play is wholly dependent upon a licensee's commercial quantity discount rate structure and the use which a licensee permits of his station by the first candidate for a particular public office who desires to buy time on the air. It is within the licensee's discretion to allot only such time as he believes in keeping with good programming practices to the first candidate for a particular office who desires to buy time. If a licensee provides sufficient time to this candidate to bring into play a discount rate which would apply if the broadcasts were commercial, the rule would require the licensee to make

this same commercial discount rate available to the candidate; and equal opportunities must be made available to opposing candidates. But nothing in the rule precludes a station from limiting the total amount of time to be made available to all legally qualified candidates for a particular office as the station licensee determines will best serve the public interest so long as equal opportunity is afforded all such candidates.

7. We conclude that the proposed amendment to §§ 3.190 (c), 3.290 (c) and 3.657 (c), as revised and set forth below, should be adopted.

8. Authority for the adoption of the proposed amendment is contained in sections 4 (i); 301; 303 (b), (j) and (r); and 315 (b) and (c) of the Communications Act of 1934, as amended.

9. Because the imminence of the November elections necessitates putting the proposed amendment to §§ 3.190 (c), 3.290 (c) and 3.657 (c) into effect at the earliest possible date, and in view of the fact that the proposed amendment is interpretative in nature and that it would not be practicable or in the public interest to provide the usual thirty-day period between the adoption of this report and order and the effective date of the amendment to the foregoing rules provided by section 4 (c) of the Administrative Procedure Act, these rule changes may, and should, be made effective immediately.

10. Therefore, it is ordered, That, effective immediately, Part 3 of the Commission's Rules is amended to read as set forth below.

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 315, 48 Stat. 1081, 1082, as amended, 1088; 47 U. S. C. 301, 303, 315)

Adopted: September 2, 1954.

Released: September 7, 1954.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. The 34 other parties filing the comment with Aiken Electronics Adv. Corporation are the following:

Roy L. Albertson, Buffalo, N. Y.
W. Gordon Allen, John B. Truhan, Justin H. Clark, Salem, Oreg.
Bankers Life & Casualty Company, Chicago, Ill.
Broadcasters of Burbank, Inc., Burbank, Calif.
Consolidated Broadcasting Co., Pasadena, Calif.
Golden Empire Broadcasting Company, Chico and Redding, Calif.
Gothan Broadcasting Corporation, New York, N. Y.
Grand Island Broadcasting Company, Grand Island, Nebr.
Great Lakes Television Company, Erie, Pa.
Hanford Broadcasting Co. of California, Hanford, Calif.
Hurricane Broadcasting Corporation, Fort Pierce, Fla.
Iron City Broadcasting Co., Ironton, Ohio.
Interstate Corporation, Ogden, Utah.
KOOR, Inc., San Antonio, Tex.
Kiggins & Rollins, Anchorage and Fairbanks, Alaska.
King Broadcasting Company, Seattle, Wash.
KIMN, Inc., Denver, Colo.

KLRC, Lewiston, Idaho.
KOLERO Telecasting Corporation, Milwaukee, Wis.
KOIV, Inc., Tulsa, Okla.
KROY, Inc., Sacramento, Calif.
KVOS, Inc., Bellingham, Wash.
KXRO, Incorporated, Aberdeen, Wash.
Lake Erie Radio & Television Corp., Bellefontaine, Ohio.
Linn County Broadcasters, Inc., Lebanon, Oreg.
Lucille Ross Lansing, Tyler, Tex.
Meredith Engineering Co., Phoenix, Ariz., and Kansas City, Mo.
Meredith Syracuse Radio Corp., Syracuse, N. Y.
Meredith Syracuse Television Corp., Syracuse, N. Y.
Meredith WOW, Inc., Omaha, Nebr.
Metropolitan Broadcasting & Television, Inc., New York, N. Y.
Mid-America Broadcasting Corp., Louisville, Ky.
Montana Farmer Broadcasting Corp., Great Falls, Mont.
Nevada Radio & Television, Inc., Reno, Nev.
North Pacific Television, Inc., Portland, Oreg.
Northwest Arkansas Radio & Television Co., Springdale, Ark.
Odessa Television Co., a Joint Venture Odessa, Tex.
Okmulgee Broadcasting Corp., Okmulgee, Okla.
Tom Olsen, Olympia, Wash.
Pioneer Broadcasters, Inc., Portland, Oreg.
Post Publishing Co., Boston, Mass.
Prairie Television Co., Decatur, Ill.
Premier Television, Inc., Evansville, Ind.
Pursley Broadcasting Service, Inc., Mobile, Ala.
Radion Broadcasting, Inc., Corona, Calif.
Sacramento Telecasters, Inc., Sacramento, Calif.
Salt Lake City Broadcasting Co., Inc., Salt Lake City, Utah.
The Sandhill Community Broadcasters, Inc., Southern Pines, N. C.
Sir Walter Television Company, Raleigh, N. C.
South Central Kentucky Broadcasting Co., Campbellsville, Ky.
Southern California Broadcasting Co., Pasadena, Calif.
Southwestern Publishing Co., Inc., Henderson, Nev.
Southwestern Radio & Television Co., Fort Smith, Ark.
Television East Bay, Oakland, Calif.
Utah Broadcasting & Television Corp., Salt Lake City, Utah.
Valley Broadcasting Co., San Jose, Calif.
Wabash Valley Broadcasting Corp., Terre Haute, Ind.
Wescoat Broadcasting Co., Wenatchee, Wash.
Wespen Television, Inc., Irwin, Pa.
Western Empire Broadcasters, Inc., San Bernardino, Calif.

2. The other parties signing the comment filed by Tennessee Valley Broadcasting Company are the following:

Anniston Broadcasting Co. (WHMA).
Western Broadcasting Co. (KIFN).
Benton Broadcasting Service (KBBA).
Forrest City Broadcasting Co. (KXJK).
George Basil Anderson (KLIR).
George Basil Anderson (KXJK).
George Basil Anderson (KJRG).
Hillsboro Broadcasting Co. (WEBK).
Robert Hecksher (WMYR).
Walton Broadcasting Co. (WMRE).
Jack Thompson and Nancy Thompson (WJAT).
Bellefonte Broadcasting Co. (WIBV).
Elgin Broadcasting Co. (WRMN).
La Salle Broadcasting Corp. (WLPO).
Marion Broadcasting Co. (WGGH).
Mattoon Broadcasting Co. (WLBI).

Port Massac Broadcasting Co. (WMOK).
 Pekin Broadcasting Co. (WSIV).
 Cornbelt Broadcasting Co. (WHOW).
 Parish Broadcasting Co. (KAPK).
 Patuxent Radio, Inc. (WPTX).
 Furniture City Broadcasting Corp. (WFUR).
 Twin Cities Advertising Agency (KPRS).
 Union Lake Broadcasters, Inc. (WMLV).
 Selma-Smithfield Broadcasting Co. (WMPM).
 North Cambria Broadcasters, Inc. (WNCC).
 Clearfield Broadcasters (WCPA).
 WDAD, Inc. (WDAD).
 John M. Norris (WCCB).
 Palmatt Broadcasting Co. (WDKD).
 Aluminum Cities Broadcasting Co. (WGAP).
 Air Mart Corp. (WOKE).
 Gap Broadcasting Co. (WLSD).
 Ben L. Parker (KBLP).
 Ben L. Parker (KBOP).

3. Section 3.190 (c) is amended to read as follows:

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

4. Section 3.290 (c) is amended to read as follows:

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference

to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

5. Section 3.657 (c) is amended to read as follows:

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

[F. R. Doc. 54-7152; Filed, Sept. 10, 1954; 8:52 a. m.]

[Docket Nos. 10377; FCC 54-1111]

[Rules Amends. 7-5, 8-7]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

USE OF TELEPHONY

In the matter of amendment of Parts 7 and 8 of the Commission's rules to delete authority for operation by coast stations, ship stations and aircraft stations on currently assignable frequencies for telephony within the band 4000 kc to 18000 kc; and to include authority for operation by such stations on other frequencies for telephony within the same band; Docket No. 10377.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 1st day of September 1954;

The Commission having under consideration that portion of its proposal in the above-entitled matter embodied in the fourth further notice of proposed rule making which relates to availability and deletion of certain additional high seas frequencies;

It appearing, that in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, notice of proposed rule making in this matter which made provision for the submission of written comments by interested parties, was duly published in the FEDERAL REGISTER on June 9, 1954 (19 F. R. 3403) and that the period for the filing of comments has now expired; and

It further appearing, that no objections were received to the proposed amendments; and

It further appearing, that the public interest, convenience and necessity will be served by the amendments herein ordered, the authority for which is contained in section 303 (c) (1) and (r) of the Communications Act of 1934, as amended;

It is ordered, That, effective October 11, 1954, Parts 7 and 8 of the Commission's rules are amended as set forth below.

(Sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
 COMMISSION,

[SEAL] MARY JANE MORRIS,
 Secretary.

A. Part 7 of the Commission's rules is amended in the following particulars:

1. Section 7.306 (a) (1) is amended by revising the table of "Working frequencies below 5000 kc" as follows: In the third column under the heading "Coast station receiving carrier frequency (kilocycles)" delete 4457.5 and in lieu thereof insert 4101.5.

2. Section 7.306 (a) (2) is amended by revising the table of "Working frequencies between 5000 kc and 30 Mc" as follows: In the third column under the heading "Coast station receiving carrier frequency (kc)" delete 17610 and in lieu thereof insert 16510.4 for coast station located in the vicinity of San Francisco, Calif.

3. Section 7.306 (b) is amended by revising the table of frequencies as follows:

a. In the fourth column opposite the item concerning New York, New York, and under the heading "Associated coast station receiving carrier frequency" delete 4457.5 and in lieu thereof insert 4101.5.

b. In the fourth column opposite the item concerning Miami, Florida, and under the heading "Associated coast station receiving carrier frequency" delete 4402.5 and in lieu thereof insert 4122.2.

B. Part 8 of the Commission's rules is amended in the following particulars:

1. Section 8.351 (a) is amended by deleting from the table of frequencies the frequency 4457.5 kc and by adding thereto the frequencies 4101.5, 4122.2, and 16510.4 kc.

2. Section 8.354 (a) (1) is amended by revising the table of frequencies as follows:

a. In the second column opposite the item concerning New York, New York, and under the heading "Mobile station transmitting carrier frequency" delete 4457.5 and in lieu thereof insert 4101.5.

b. In the second column opposite the item concerning Miami, Florida, and under the heading "Mobile station transmitting carrier frequency" delete 4402.5 and in lieu thereof insert 4122.2.

3. Section 8.355 (a) (1) is amended by adding to the table of frequencies the frequency 16,510.4 with a footnote designator²; and by inserting table footnote 3 to read:

²For use in communication with public coast stations located in the vicinity of San Francisco, California.

[F. R. Doc. 54-7153; Filed, Sept. 10, 1954; 8:53 a. m.]

[Rules Amdts. 7-6, 8-8, 12-6; FCC 54-1125]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

PART 12—AMATEUR RADIO SERVICE

REGIONAL MANAGERS AND DISTRICT FIELD OFFICE AREAS

In the matter of amendment of Parts 7, 8 and 12 of the Commission's rules and regulations, modification of Part 7, Appendix 1 (§ 7.601), Part 8, Appendix 1 (§ 8.801) and Part 12, Appendix 1, with reference to Regional Managers and District Field Office Areas.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of September 1954;

The Commission having under consideration further reduction in the number of Regional Offices and reorganization of the area embraced by its Seattle, Washington, Regional Office and relocation of its District office in Juneau, Alaska; and

It appearing, that the Anchorage, Alaska Regional office should be eliminated and that the Territory of Alaska should be included within the area embraced by the Seattle, Washington Regional office; and

It further appearing, that the District office presently located at Juneau, Alaska should be transferred to Anchorage, Alaska and that a District Sub-Office be established in Juneau.

It is ordered, Pursuant to section 4 (i) and 303 (r) of the Communications Act, as amended, and section 3 (a) of the Administrative Procedure Act that Parts 7, 8 and 12 of the Commission's rules are hereby amended effective September 15, 1954, as set forth below.

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Amend § 7.601 by adding under Region No. 4: District No. 23.

2. Amend § 7.601 by deleting the listing under Regional Managers: "Region No. 6, P. O. Box 644 (Rm. 52 U. S. P. O. and Courthouse), Anchorage, Alaska—To include: District No. 23"

3. Amend § 7.601 by modifying the information contained under Radio District No. 23 to read as follows:

P. O. Box 644,
Room 53,
U. S. P. O. and Courthouse Building,
Anchorage, Alaska.
Sub-Office: P. O. Box 1421, 7-8,
Shattuck Building,
Juneau, Alaska.

4. Amend § 7.601 by renumbering the Regional offices from 1 to 7 as follows:

Region No. 1, 954 Federal Building, 641 Washington Street, New York 14, N. Y.—To include: Districts Nos. 1, 2, 3, 4, 5, and 24.

Region No. 2, 411 Federal Annex, Atlanta, Ga.—To include: Districts Nos. 6, 7, 8, 9, 10 and 22.

Region No. 3, 323-A Customhouse, San Francisco 26, Calif.—To include: Districts Nos. 11, 12, and 15.

Region No. 4, 802 Federal Office Building, Seattle 4, Wash.—To include: Districts Nos. 13, 14 and 23.

Region No. 5, P. O. Box 1142, Lanikai, Oahu, T. H.—To include: District No. 21.

Region No. 6, 832 U. S. Courthouse, Chicago 4, Ill.—To include: Districts Nos. 16, 17 and 18.

Region No. 7, 1029 New Federal Building, Detroit 26, Mich.—To include: Districts Nos. 19 and 20.

5. Amend § 8.801 by adding under Region No. 4: District No. 23.

6. Amend § 8.801 by deleting the listing under Regional Managers: "Region No. 6, P. O. Box 644 (Rm. 52 U. S. P. O. and Courthouse), Anchorage, Alaska—To include: District No. 23"

7. Amend § 8.801 by modifying the information contained under Radio District No. 23 to read as follows:

P. O. Box 644,
Room 53,
U. S. P. O. and Courthouse Building,
Anchorage, Alaska.
Sub-Office: P. O. Box 1421, 7-8,
Shattuck Building,
Juneau, Alaska.

8. Amend § 8.801 by renumbering the Regional offices from 1 to 7 as follows:

Region No. 1, 954 Federal Building, 641 Washington Street, New York 14, N. Y.—To include: Districts Nos. 1, 2, 3, 4, 5, and 24.

Region No. 2, 411 Federal Annex, Atlanta, Ga.—To include: Districts Nos. 6, 7, 8, 9, 10, and 22.

Region No. 3, 323-A Customhouse, San Francisco 26, Calif.—To include: Districts Nos. 11, 12, and 15.

Region No. 4, 802 Federal Office Building, Seattle 4, Wash.—To include: Districts Nos. 13, 14 and 23.

Region No. 5, P. O. Box 1142, Lanikai, Oahu, T. H.—To include: District No. 21.

Region No. 6, 832 U. S. Courthouse, Chicago 4, Ill.—To include: Districts Nos. 16, 17 and 18.

Region No. 7, 1029 New Federal Building, Detroit 26, Mich.—To include: Districts Nos. 19 and 20.

9. Amend Part 12—Appendix 1 by modifying the information contained under Radio District No. 23 to read as follows:

P. O. Box 644,
Room 53,
U. S. P. O. and Courthouse Building,
Anchorage, Alaska.
Sub-Office: P. O. Box 1421, 7-8,
Shattuck Building,
Juneau, Alaska.

[F. R. Doc. 54-7154; Filed, Sept. 10, 1954; 8:53 a. m.]

[Docket 10315]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 9—AVIATION SERVICES

PART 10—PUBLIC SAFETY RADIO SERVICES

PART 11—INDUSTRIAL RADIO SERVICES

PART 16—LAND TRANSPORTATION RADIO SERVICES

OPERATIONAL FIXED STATIONS AND FIXED STATIONS IN DOMESTIC FIXED PUBLIC SERVICE

In the matter of a new policy to govern the assignment of frequencies in the band 72-76 Mc to operational fixed stations and fixed stations in the Domestic Fixed Public Service; Docket No. 10315.

The Commission having under consideration its report and order¹ released on July 2, 1954, in the above-entitled proceeding which finalized certain amendments to the Commission's rules;

It appearing, that attached to the amended rules were two charts, one for Channel 4 and one for Channel 5, "For Determining Radius From Fixed Station In 72-76 Mc Band To Interference Contour Along Which 10 Percent Of Service From Adjacent Television Station Would Be Destroyed"; and

It further appearing, that in each of those charts an error was made in the position of the "h" line (Height of Fixed Station Antenna) on the chart, and;

It further appearing, that since the effective date of the amendments to the rules was August 9, 1954, and that few, if any, of the applications for fixed stations which have been granted since that date would not have been granted had the charts in question been correct, and that, in any event, all fixed operations in the 72-76 Mc band are subject to the condition of no harmful interference to television reception on Channels 4 and 5, the Commission has determined that it is not necessary to review the applications that have been granted since the amended rules went into effect; and

It further appearing, that the amendment in question is editorial in nature and therefore the provisions of section 4 of the Administrative Procedure Act are not applicable and the amendment may be made effective immediately;

It is ordered, Pursuant to the authority contained in sections 4 (i) and 301 of the Communications Act of 1934, as amended, the nomographs² for TV Channel 4 and TV Channel 5 are amended, effective immediately.

Adopted: September 2, 1954.

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-7148; Filed, Sept. 10, 1954; 8:51 a. m.]

¹ See F. R. Doc. 54-5204, published July 10, 1954 (19 P. R. 4231).

² Filed as part of original document.

[Docket No. 10927; FCC 54-1109]

[Rules Amdt. 12-5]

PART 12—AMATEUR RADIO SERVICE

FREQUENCIES AND TYPES OF EMISSION;
MODULATION OF CARRIER WAVE

In the matter of petitions of the American Radio Relay League for amendment of Part 12, Amateur Radio Service; Docket No. 10927.

1. As a result of its consideration of petitions for rule making filed by the American Radio Relay League, the Commission adopted the notice of proposed rule making in this proceeding, and it was duly published in the FEDERAL REGISTER on February 27, 1954 (19 F. R. 1121). The notice contained proposed amendments to § 12.111 (d) and (g) to expand the amateur frequency sub-bands 14.20-14.30 and 28.50-29.70 Mc presently available for telephonic emissions to 14.20-14.35 and 28.25-29.70 Mc, respectively. The notice also contained proposed amendments to §§ 12.111 (h) and 12.134 to permit the use of type A₀ emission in the 51.0-54.0 Mc portion of the 50.0-54.0 Mc amateur frequency band. The petitioner's request for a mobile-only telephony sub-band in the 3775-3800 kc portion of the 3500-4000 kc amateur frequency band was not proposed, but comment "as to the propriety of subdividing not only this but also other amateur bands and of subdividing the amateur bands for other purposes as well as mobile radiotelephone" was invited. The petitioner's request for provision, on a temporary or trial basis, of additional frequency space in the 50 Mc band for use by Novice Class operators was not proposed on the basis that the Commission believed it unwise to permit such operation because the novice, in general, cannot be expected to have the experience and technique to successfully cope with the serious problems of interference to television reception likely to result from operations in the band.

2. Following publication of the notice, a number of written comments were received from individual amateurs and amateur organizations. In general, the comments supported provision for A₀ emission in the 50 Mc band, opposed establishment of a mobile-only sub-band for telephony at 3775-3800 kc, and opposed the subdivision of the amateur bands for other purposes as well as for mobile radiotelephone. The American Radio Relay League requested "the withdrawal of its petition . . . seeking to establish a mobile voice suballocation in 3775 to 3800 kilocycles" and expressed "itself as in agreement with the general philosophy of the Commission . . . that the setting aside of portions of the amateur frequency bands for the use of special groups would not permit the fullest and most diversified use of all frequencies available for amateur radio operation."

3. The League, in its comment, continued to support its original position that expansion of the 14 and 28 Mc bands for telephony is desirable for the relief of the crowded occupancy thereof. A number of amateurs, including many who prefer telephony, expressed opposition to such expansion. Comment fa-

vorable to the retention of the present subdivisions for telephony was on the basis that the primary use of the two frequency bands in question is for international contacts and that the proposed expansion would decrease their usefulness for this purpose for both foreign and domestic amateurs regardless of whether telegraphy or telephony would be used.

4. Additionally, it was pointed out that present occupancy of the 28 Mc band is very light and that when propagation conditions again reach the state where heavy occupancy will be encouraged therein, widespread use of the 21 Mc band may be expected for the first time since it was allocated to the amateur service, thus offering some relief of congestion in both the 14 and 28 Mc bands.

5. In view of the fact that the effect of the availability of the 21 Mc amateur frequency band upon congestion in the 14 and 28 Mc bands cannot be assessed until some time in the future when propagation conditions are such as to encourage increased activity in the 21 and 28 Mc bands, the Commission believes it to be in the best interest of the Amateur Service to defer further consideration of expansion of the 14 and 28 Mc sub-bands for telephony. Therefore, the Commission is hereby dismissing the proposed amendment of § 12.111 (d) and (g).

6. Comments received concerning the petitioner's request for novice operation in the 50 Mc band did not disclose any facts not already considered by the Commission in making its initial decision that it would be unwise to propose such rule changes at this time. The Commission will, however, consider other means of encouraging amateur use of the 50 Mc frequency band.

7. The Commission believes that encouragement and improvement of the Amateur Radio Service will result from the adoption of the amendments providing for the use of A₀ emission in the 50 Mc amateur frequency band. These amendments are issued pursuant to authority contained in sections 4 (i) and 303 (f) and (r) of the Communications Act of 1934, as amended.

Therefore, it is ordered, That effective 3:00 a. m., e. s. t., October 15, 1954, §§ 12.111 (h) and 12.134 of Part 12, Amateur Radio Service, are amended as set forth below.

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1062, as amended; 47 U. S. C. 303)

Adopted: September 1, 1954.

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Amend § 12.111 (h) to read as follows:

(h) 50.0 to 54.0 Mc using types A1, A2, A3, and A4 emissions and narrow band frequency or phase modulation for radiotelephony, 51.0 to 54.0 Mc using type A₀ emission, and on frequencies 52.5 to 54.0 Mc special emission for frequency modulation (radiotelephone

transmissions and radiotelegraph transmissions employing carrier shift or other frequency modulation techniques).

2. Amend § 12.134 to read as follows:

§ 12.134 *Modulation of carrier wave.* Except for brief tests or adjustments and except for operation in the band 26.96 to 27.23 Mc, an amateur radiotelephone station shall not emit a carrier wave on frequencies below 51 Mc unless modulated for the purpose of communication.

[F. R. Doc. 54-7155; Filed, Sept. 10, 1954; 8:53 a. m.]

[Docket No. 10778; FCC 54-1117]

[Rules Amdt. 18-4]

PART 18—INDUSTRIAL, SCIENTIFIC AND
MEDICAL SERVICE

SHORT-WAVE EPILATION EQUIPMENT

In the matter of amendment of § 18.51 of the Commission's rules concerning use of short-wave epilation equipment; Docket No. 10778.

1. On April 16, 1954, the Commission released a memorandum opinion and order in the above-entitled matter finalizing a proposed amendment to § 18.51 of the Commission's rules. The Commission's memorandum opinion and order, set forth the amended text of § 18.51 and, in part, read as follows: "The provisions of this part . . . shall not be applicable until December 31, 1955 for such [epilation] equipment manufactured between December 31, 1950 and June 30, 1954 . . ." However, the Commission's notice of proposed rule making and the text of the memorandum opinion and order of April 16, 1954, make it abundantly clear that the above-quoted portion of the amended section was intended to read: "The provisions of this part . . . shall not be applicable until December 31, 1955 for such [epilation] equipment manufactured between December 31, 1950 and June 30, 1953 . . .", and that the June 30, 1954 date was a typographical error.

2. Section 18.51 of the rules is now being amended to correct the typographical error. However, while the Commission believes that the intent of the amendment was clear, it is recognized that some persons purchasing epilation equipment may have been misled by the typographical error in the text of the rule. Therefore, the Commission proposes to grant petitions for waiver of § 18.51 in those instances where it can be demonstrated that, during the period between April 16, 1954, and the date on which this memorandum opinion and order was released, persons purchased epilation equipment manufactured after June 30, 1953, and which does not comply with Part 18, in reliance on the error contained in the Commission rules which indicated that such equipment could be used until December 31, 1955. The Commission will grant such waivers only on an individual basis, and, in no event, will any such waiver permit the use of such non-complying equipment beyond December 31, 1955.

3. In view of the fact that the amendment herein ordered is editorial in nature, the provisions of section 4 of the

Administrative Procedure Act with respect to notice are not applicable and the amendment may be made effective immediately.

4. It is ordered, Pursuant to the authority of sections 4 (i), 301 and 303 (r) of the Communications Act of 1934, as amended, that § 18.51 of the Commission's rules is amended as set forth below, effective immediately.

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 48 Stat. 1081, 1082, as amended; 47 U. S. C. 301, 303)

Adopted: September 1, 1954.

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Section 18.51 of the Commission's rules and regulations is amended to read as follows:

§ 18.51 *Existing equipment.* The provisions of this part shall not be applicable until June 30, 1954 to epilation equipment, which uses radio frequency energy manufactured before December 31, 1950, and shall not be applicable until December 31, 1955 for such equipment manufactured between December 31, 1950 and June 30, 1953: *Provided*, That the foregoing provisions of this section shall be applicable only if such steps as may be necessary are promptly taken to eliminate interference to authorized radio services resulting from the operation of equipment manufactured prior to the respective dates set forth in this section.

[F. R. Doc. 54-7156; Filed, Sept. 10, 1954; 8:53 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 923]

[Docket No. AO-251]

HANDLING OF MILK IN APPALACHIAN MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Bristol, Virginia on February 1-6 and 8-10, 1954, pursuant to notice thereof which was issued January 16, 1954 (19 F. R. 297), upon a proposed marketing agreement and order regulating the handling of milk in the Appalachian marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on August 16, 1954, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision. Said decision containing notice of opportunity to file written exceptions thereto was published in the *FEDERAL REGISTER* on August 17, 1954 (19 F. R. 5180).

Within the period reserved therefor, interested parties filed exceptions to certain of the findings, conclusions and actions recommended by the Deputy Administrator. In arriving at the findings, conclusions, and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that findings, conclusions and actions decided upon herein are at variance with any of

the exceptions, such exceptions are overruled.

To the extent that suggested findings and conclusions proposed by interested persons are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

The material issues of record related to:

1. Whether the handling of milk in the market is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;
2. Whether marketing conditions justify the issuance of a marketing agreement or order; and
3. If an order is issued what its provisions should be with respect to:
 - (a) The scope of regulation;
 - (b) The classification of milk;
 - (c) The level and method of determining class prices;
 - (d) The method to be used in distributing proceeds to producers; and
 - (e) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, it is hereby found and concluded that:

1. *Character of commerce.* The handling of milk in the Appalachian marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and its products.

The proposed marketing area embraces portions of three States: namely, Tennessee, Virginia and Kentucky. Milk handled in the marketing area moves in large volumes and in many forms back and forth over State lines. The production areas from which milk is received by the various handlers who would be regulated overlap State boundaries. Milk from the farms of many producers in southwestern Virginia goes

to plants in Tennessee and Kentucky where it is bottled for distribution to consumers. Part of this milk is moved out of the State directly from the farms. Some of it is received from producers at country stations in Virginia and moved in bulk to the Tennessee and Kentucky plants. Milk from Tennessee and Kentucky farms of producers as defined under the proposed order likewise finds its way across State boundaries. In addition, milk sold for fluid distribution in the marketing area is received in tank lots by plants serving the marketing area from points in Ohio and Indiana.

Testimony at the hearing indicates that of the Grade A milk produced in southwestern Virginia which would be priced under the proposed order more than half is distributed outside the State. Milk packaged for retail distribution is moved from each section of the marketing area (in Virginia, Tennessee, and Kentucky) across State lines. The greatest volume of interstate movement of milk on routes in the proposed area is carried out by the operation of routes throughout the city of Bristol, which is one of the primary markets of the area. Here the Virginia-Tennessee State line is located along the main street of the city. Milk plants on both sides of this line service consumers throughout the city. Retail and wholesale routes from plants which would be subject to the order cross the Virginia-Tennessee line elsewhere, and also, the Kentucky-Virginia State lines.

Manufactured milk products made from excess milk in the plants of handlers are sold in many States throughout the southeastern portion of the country.

2. *Need for an order.* Marketing conditions in the Appalachian marketing area justify the issuance of a marketing agreement and order.

There is no overall plan whereby farmers supplying the Appalachian marketing area are assured of payment for their milk in accordance with its use. Neither is there a procedure whereby farmers may participate in the price determinations throughout the area necessary for the marketing of their milk, which because of its perishability must be delivered to the market daily as it is produced.

A marketing order as proposed will promote orderly marketing by assuring producers prices equivalent to those contemplated under the act. Prices paid farmers for milk for fluid use have frequently been below the Class I prices an order would provide. Many of the farmers do not know how their milk is utilized at the various plants to which they deliver, or whether the basis on which they are being paid from month to month will be revised. In some instances, farmers are notified of price changes some days after such changes had been made effective by the handler. Accuracy of weights and butterfat tests of milk have been ascertained infrequently.

The major handlers in the market have refused or failed to recognize or to bargain with duly constituted cooperative associations as to price, or any other terms with respect to the sale of the milk of such associations.

Several handlers in the area have dealt with farmers in such a way as to discourage cooperative action by these farmers. Some handlers refused to make deductions for cooperative dues from payments due their producers, even though such deductions had been properly authorized by the producers. Failure to make such deductions has limited the cooperatives in instituting check weighing and testing programs. Representation by farmers shipping to one of the large handlers in dealing with the handler in matters affecting farmers was instituted under the auspices of the handler. Such effectiveness as the farmers were able to manifest in negotiating with the handler to further producer interests was limited in scope. While this handler-sponsored producer association may have contributed to the maintenance of goodwill in the producer-handler relations, it was not in a position to act as an independent producer organization in negotiating prices, or otherwise to act in behalf of producers in the marketing of their milk.

Prices paid to producers throughout the marketing area are generally at the option of the handler. The record indicates that prices are, in some instances, arbitrarily arrived at, and many farmers do not have any assurance of any price at all for their milk. All handlers in the market do not pay on the same basis. One of the larger handlers pays producers a flat price for their milk without regard to butterfat test or the way in which it is used. In those instances that handlers purportedly pay on the basis of the way milk is utilized, no complete systematic verification is made.

The stated Class I prices paid producers by the various handlers in the area are frequently not meaningful. Although all milk received from a producer at a plant may be sold for fluid consumption, the price he receives could be, and usually is, less than a Class I price because of the various pricing schemes followed by handlers in the market. In some cases, bottled milk and milk products moved beyond a specified distance from the bottling plant return a lesser price to producers. Sales on special contracts and buttermilk sales frequently bring producers prices at a level nearer the condensery price than the Class I price.

Milk is often imported into the area from outside sources at times when considerable volumes of producer milk are used in Class II. Producers lose Class I sales to such imports which may be obtained as excess milk from other markets.

There is little uniformity in the base rules of handlers in the different sections of the milkshed that apply with respect to base and excess plans used in paying producers. Transfer of producers between plants is restricted because of the diversity in application of each of the plans by the various handlers. A new producer coming into the market, as well as an established producer transferring between plants, is uncertain as to his status with respect to the basis on which

he will be paid during much of the year. Likewise, uncertainty exists as regards establishing bases, transferring bases or resolving unusual situations which arise in connection with the operation of base and excess plans.

The Virginia Milk Commission fixes prices with respect to a portion of the milk purchased in that section of the proposed marketing area which lies in Virginia.

Effective August 1, 1949, an order designated "Rules and Regulations for the Supervision and Control of the Southwest Virginia Milk Market" was issued by the Commission. This order, which has been amended twice since its issuance, provides for minimum prices which handlers must pay base-holding producers, and the minimum prices at which milk may be sold by handlers to retail and wholesale customers.

In the summer of 1953, it became apparent that the Commission was not in a position to enforce its regulations when milk moved across State lines. Some milk from southwest Virginia producers was forced into surplus disposition as its usual outlets for fluid use were displaced by outside milk. The scope of regulation by the Virginia Milk Commission was clarified when a decision was rendered in 1953 by the Supreme Court of Virginia to the effect that the State Milk Commission may fix prices only on that milk sold for consumption in Virginia.

Southwest Virginia handlers who receive milk from Virginia producers for distribution both inside and outside the State are required by the Commission's order to pay producers a prescribed minimum price for milk sold for consumption in Virginia. Since the price of milk which such handler distributes outside Virginia is not fixed by any regulation, the blend price which he pays to his Virginia producers may well be significantly less than the blend calculated at the minimum prices fixed by the Commission. Although the arithmetical calculation of the handler may show that he paid the prescribed minimum prices for milk sold in Virginia, he is not restrained from applying an arbitrary price to milk distributed outside the State to arrive at a predetermined producer pay price.

Various classification designations prevail throughout the Appalachian marketing area. Even under the purported classification schemes, prices paid producers for their deliveries are not based on actual utilization of the milk delivered by them to handlers. Milk sold for fluid consumption in various forms or under various conditions is frequently designated as other than Class I under the prevailing classification systems and paid for at prices lower than the stated Class I prices.

Although buttermilk sales are a substantial portion of the total fluid sales in the market, comparatively little of the skim milk and butterfat used in the manufacture of buttermilk is paid for at the Class I price. The Virginia Milk Control Commission order for south-

western Virginia provides that the whole milk equivalent of butterfat in buttermilk sold shall be Class I. Since there are generally negligible quantities of butterfat in buttermilk, the major portion of skim milk utilized in buttermilk under the jurisdiction of the Commission is not paid for as Class I. Some handlers in the Tennessee portion of the marketing area buying from producers on a classification basis classify buttermilk sales as Class I-B and price such classification at 50 cents above the local condensery price. As with buttermilk, producers are not given full consideration for the sales of flavored milk and skim milk drinks in Class I. While some producers in the area may receive a Class I price for their deliveries which are used in the manufacture of buttermilk and flavored milk drinks, numerous producers in the area receive practically manufacturing prices for their deliveries utilized in these fluid outlets.

Sales by handlers to large outlets, such as government agencies and factories, are classified and paid for at prices below the stated Class I price. Such sales are made on the basis of contracts, which are let on bids. One handler representative testified that a I-A classification was established at his plant for such sales to dispose of producer surplus. Bidding on such contracts at these lower prices was necessary, it was contended, in order to obtain the contracts away from other handlers.

As handlers compete with each other on the various bids, returns to producers may be expected to decline. There is no practical limit short of the surplus price to which such bids may go, and no limit as to the size of sale which may be involved. Producers testified that handlers take on additional producers when they obtain such contracts, and consequently, the overall producer blend is lowered. The decline in producer returns is further accelerated as the total sales by handlers to such contract buyers continue to increase, as they have during the past year.

Prices to producers for milk sold by handlers as "contract milk" have been as much as \$1.50 per hundredweight below the stated Class I price. In those instances where some producer milk was paid for in a special class as contract milk, producers did not always have information relative to the places to which such sales were being made, the quantities of milk and milk products so disposed of, or the extent to which such sales were made at prices below those prevailing in the area.

The practice of handlers to cut prices paid producers on milk sold on special bids in order to be in a position to underbid competition is tending to create unstable conditions in the market. While this practice might be rationalized by a handler on the basis that it would enable him to dispose of surplus, the same handler would be required to receive additional milk to meet the added demand for his milk if he is to serve such outlets throughout the year. A further dilution of the blend price to his producers would

result if the handler failed to obtain renewal of the contract.

A price of \$4.50 per hundredweight was paid producers for milk sold by a local handler on a special bid. A handler under the Knoxville order who previously had served the account would have been required to pay the Class I price under that order, which was \$6.68 during the period covered by the bid. Stated Class I prices in the Appalachian area during the same period were \$5.95 to \$6.55 per hundredweight. Nevertheless, the handler contended it was necessary to pay producers the lower price in order to obtain the contract.

The record indicates that there is a lack of detailed market information for this area. Such information is essential to the effectuation of orderly marketing and in achieving a level of Grade A milk production commensurate with consumer demand for Grade A fluid products. Some data on receipts and utilization of milk for fluid and manufacturing uses is made available by the Virginia Milk Commission. This information pertains to only one segment of the area, however, and it does not portray marketing conditions for the whole area.

It is concluded that the issuance of a marketing agreement and order for the Appalachian marketing area would contribute substantially to the improvement of many of the conditions complained of and tend to effectuate the declared policy of the act. The adoption of a classified price plan based on the audited utilization of handlers will provide a uniform system of minimum prices to handlers for milk purchased from producers and a fair division among all producers of the returns from Class I sales. The public hearing procedure required by the Agricultural Marketing Agreement Act will provide opportunity for representation of producers, handlers and the public in the determination of prices and marketing conditions for milk in the area.

3. Order provisions—(a) Scope of regulation; marketing area. The marketing area should include all the territory within the counties of Greene, Washington and Sullivan in Tennessee; Washington and Wise in Virginia; and Harlan in Kentucky.

The milk which is distributed in these counties is handled almost entirely from plants located within the counties. The primary outlets for the Class I milk of these plants are in this proposed area.

The handlers who would be regulated pursuant to the attached order are in competition throughout the marketing area. Milk plants located in the Virginia portion of the proposed area distribute a large share of their milk in Tennessee and Kentucky while handlers in the Tennessee and Kentucky portions of the recommended area distribute milk in Virginia. All of the handlers who would be subject to the order are subject to similar or the same market conditions with respect to alternative sources and outlets for milk.

Milk sold for Grade A consumption must be approved by health authorities in each of the respective portions of the marketing area. The movements of milk from one section of the area to the other take place with the approval of

the appropriate health authorities. The health ordinances and the practices and procedures of the health authorities throughout the marketing area are generally patterned so as to be in accordance with the United States Public Health Service Milk Ordinance. Ratings by the United States Public Health Service are recognized by local health authorities as a basis for accepting milk from outside sources. Reciprocal agreements on farm inspections and on finished Grade "A" milk products for distribution prevail between the various health authorities in the area. It is concluded, therefore, that the milk to be priced under the proposed order is interchangeable and the degree of similarity of minimum health standards throughout the area justifies uniform regulations for the milk marketed throughout the area.

The marketing area should be defined on the basis of county rather than city boundaries. Substantial portions of the fluid milk marketed in the area are represented by sales to outlets located outside city boundaries. Also, health ordinances for cities and counties are administered by the same health authority throughout most of the area.

It was proposed that Smyth County, Virginia, be included in the marketing area. The record discloses that this county does not represent an important outlet for milk for handlers serving the proposed area. Also, a separate order for Smyth and Wythe Counties has been administered by the Virginia Milk Commission. The prices fixed by the Commission for milk in these two counties have been somewhat above those herein recommended for the Appalachian marketing area. It is concluded that handlers regulated pursuant to the proposed order will not be at a disadvantage with respect to sales of milk in Smyth County if it is not included in the marketing area.

Certain handlers testified that they distribute Class I milk in counties in addition to those proposed to be included in the marketing area. Since these counties were not proposed as part of the marketing area in the notice of hearing they may not be included under regulation at this time. Extension of the regulation to these areas would bring additional handlers under regulation who in turn have important sales outlets which would be unregulated. It is concluded that the volume of milk sold outside the marketing area from pool plants as defined under the proposed order is not sufficient nor marketing conditions in these areas such that their exclusion would be inappropriate or unjustified at this time.

Designation of plants and milk to be subject to regulation. Provision should be made in the order to designate clearly what milk will be subject to pricing provisions of the order. For this reason, definitions of handlers, milk plants, producers, producer milk, and other source milk should be provided. Such definitions will permit unequivocal reference to these persons or items throughout the order.

The term "handler" should be used to designate the operator of an approved

plant under the order. Handlers are the persons who should be required to report the receipts and utilization of milk the handling of which is regulated and should be held responsible for paying producers for milk in accordance with the terms of the order. In case a person operates more than one plant at which milk is to be priced, he should be a handler with respect to the combined operations of such plants. If the handler operates a plant not associated with the regulated market, he would not be a handler with respect to such plant. Producer-handlers and operators of approved plants which do not qualify as fluid milk plants should be considered handlers in order to require such persons to report to the market administrator as is needed to determine their status.

The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants primarily engaged in supplying fluid milk for sale on retail and wholesale routes in the marketing area. Such plants would be defined as "fluid milk plants."

A fluid milk plant under the attached order would be any plant from which a volume of Class I milk equal to an average of more than 1,000 pounds per day or more than 2.0 percent of the approved milk of such plant is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other fluid milk plants) located in the marketing area. Such a plant would be considered a distributing plant.

Plants supplying Grade A milk, skim milk or cream to distributing plants would be fluid milk plants under certain circumstances. A supply plant which receives milk from farmers holding dairy farm permits or ratings issued by an appropriate health authority having jurisdiction in the marketing area would be a fluid milk plant in any month during which milk, skim milk or cream is moved from such plant to a distributing plant regulated pursuant to the order. Other supply plants would be fluid milk plants in any of the months of February through July during which any Grade A milk or skim milk is shipped to a distributing plant regulated pursuant to the order. Plants coming under the order because of shipments to distributing plants would be considered supply plants.

It would be inappropriate to extend regulation to any milk plant from which only minor quantities of milk are distributed in the marketing area. Such plants are selling primarily in competition with milk of unregulated handlers outside the marketing area. Regulation of such plants might place them in an uneconomic and unfavorable position with respect to sales outside the marketing area. So long as the limits as to sales such a plant may make in the marketing area are kept relatively low, the volume of unpriced milk in the market would not present an unstabilizing force in the market.

It is concluded that this limit should be placed at 2.0 percent of the Grade A milk received at such plant from all

sources or an average of 1,000 pounds of Class I milk a day, whichever is less. Any plant from which a volume of Class I milk equal to more than 1,000 pounds per day or 2.0 percent of its receipts of Grade A milk, skim milk or cream is disposed of in the marketing area should be designated as a distributing plant and fully subject to regulation.

Any plant from which Class I milk is distributed in the marketing area, but which does not meet the standards for a fluid milk plant, should be defined as an "approved plant" and be required to file reports and submit to audits by the market administrator to verify the status of such plant.

Throughout the year distributing plants, as herein defined, receive supplemental supplies of milk from supply plants. Some of these supply plants are associated with the market as a regular part of its supply, and the dairy farmers delivering to such plants hold dairy farm permits or ratings issued by health authorities having jurisdiction in the marketing area. Supply plants in this category should be included within the definition of a fluid milk plant throughout the year so long as they are used as sources of supply by distributing plants.

In the case of supply plants which are not under the routine inspection of health authorities in the marketing area a different standard should be used. Such plants normally provide supplemental milk to distributing plants in various other sales areas, and their shipments to the Appalachian area for Class I use are primarily seasonal in nature. To the extent these plants furnish only needed supplemental milk in months of low production they should not be brought under regulation. The fact that such milk will not be priced in the months of low production would not represent a threat to the stability of the regulated market. However, if shipments are made from such supply plants to distributing plants during the flush production months, they should be brought under regulation and made fully subject to the pricing provisions of the order. This provision would place such a plant on the same competitive level of pricing and subject it to the same regulatory requirements during these months as are applicable to plants which supply the market the year round. Plants subject to other orders issued pursuant to the act should not be made subject to the pricing provisions of this order.

If a portion of a plant is operated separately and no approved milk is received in such portion of the plant, the non-approved portion should not be considered as part of a fluid milk plant. However, if any Grade A milk is handled in that portion of the plant in which ungraded milk is received, the over-all operation of the plant would be considered as that of a fluid milk plant and any Class I disposition therefrom should be credited first to producers.

"Producer" should be defined as any person, other than a producer-handler, who produces milk under a dairy farm inspection permit issued by a duly constituted health authority and whose milk may be used as Grade A milk for consumption in the marketing area if

such milk is received at a fluid milk plant. Provision should be made so that the milk of producers regularly received at a fluid milk plant may be diverted for the account of a handler to a nonfluid milk plant any day during the flush production months and on not more than 15 days during any other months and still retain status under the order. Diverted milk shall be deemed to have been received at the plant from which it was diverted. It was proposed that a co-operative be authorized to divert milk to unapproved plants. It was not shown, however, that such authority under the regulations of an individual handler-pool would serve any purpose.

"Other source milk" should be defined as all skim milk and butterfat contained in products utilized by the handler in his operations, except milk from producers and other Class I products received from other fluid milk plants. Thus, other source milk would represent butterfat and skim milk which may not be subject to the pricing provisions of this order.

Persons who are engaged in producing milk and distributing only milk of their own production, should be subject to the order only to the extent that they must submit reports to the market administrator, as required, and maintain and make available to the market administrator accounts, records, and facilities so that the market administrator may verify that such persons are producer-handlers. It would be meaningless to require under the order that a producer-handler pay any particular price for milk produced on his own farm.

Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler will be Class I milk. Any supplemental supplies of milk which may be obtained from other handlers may, by virtue of the type of operation involved, be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. Pursuant to the proposed order, any milk which a handler receives from a producer-handler would be other source milk and would, therefore, be allocated to the lowest class utilization at the fluid milk plant(s) of a handler after the allocation of shrinkage on producer milk.

(b) *Classification of milk.* Milk received by regulated handlers should be classified on the basis of the form in, or the purpose for which it is used, as either Class I milk or Class II milk.

The products which should be included in Class I milk are those generally required by health authorities in the marketing area to be obtained from milk or milk products from approved "Grade A" sources. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products somewhat above the ungraded or manufacturing milk price. This higher price should be at such a level

that it will yield a blend price to producers that will encourage production of enough milk to meet market needs.

Excess milk not needed seasonally or at other times for Class I use must be disposed of for manufactured products. These products are less perishable and must be sold in competition with products made from unapproved milk. Milk so used should be classified as Class II milk and priced in accordance with its value in such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including concentrated or reconstituted nonfat milk solids) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen cream), and any mixture in fluid form of skim milk and cream (except ice cream mix, eggnog, and sterilized products contained in hermetically sealed containers); and (2) not accounted for as Class II milk.

Class I products which contain concentrated skim milk solids such as skim milk drinks to which extra solids have been added or concentrated whole milk disposed of for fluid use, should be included under the Class I milk definition. Products such as evaporated or condensed milk packaged in bulk or in hermetically sealed cans should not be considered as concentrated milk.

It was contended that in some portions of the marketing area buttermilk may be made from ungraded milk and that it, therefore, should not be included in Class I. It must be made from Grade A milk in the primary consuming areas of the proposed market, however, and all plants selling in these areas must abide by such standards. This includes most of the principal distributing plants which would be regulated. Among those plants not so required it is not a practice to make buttermilk from ungraded milk or milk products. Buttermilk distributed in the market is generally labeled and otherwise designated as a Grade A product.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk and butterfat content of milk products, received and disposed of by a handler, can be determined through certain testing procedures. Some of these products, such as ice cream and condensed products, present a difficult problem of testing in that some of the water contained in the milk has been removed. It is desirable in the case of such products to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator or by means of standard conversion factors of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Butterfat and skim milk used to produce Class II products should be consid-

ered to be disposed of when so used. Handlers will need to maintain stock records on such products, however, to permit audit of their utilization records by the market administrator. Class II products from any source used in the production of products included in Class I milk should be considered to be a receipt of other source milk. This will maintain priority of assignment of current receipts of producer milk to Class I utilization.

Handlers must be held responsible for a full accounting of all their receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible to the market administrator to establish the classification of, and make payment to producers for, such milk. Except for such limited quantities of shrinkage which may under certain conditions (as set forth elsewhere in this decision) be classified in Class II, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use. It is necessary to place the burden of proof on the handler to establish the utilization of any milk as other than Class I.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream, ice cream mix and other frozen desserts and mixes; butter, cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened); nonfat dry milk solids, dry whole milk; condensed or dry butter-milk; and any other products not specified as Class I milk.

Cream which is placed in storage and frozen should be classified as Class II milk. Such cream is intended primarily for use in ice cream and ice cream mixes. Any frozen cream or other Class II products which are used later in a fluid milk plant would be considered as other source milk at the time of such use and assigned to the lowest priced utilization in the plant.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Accounting procedure will be facilitated by providing that month end inventories of all products designated as Class I milk, regardless of whether such products are held in bulk or in packages, should be classified in Class II milk. Inventories of such products on hand will then be subtracted from Class II use the following month. If any products which are classified as Class II milk because they are held in month-end inventories or later used in Class I, the higher value use should be reflected to producers unless producer milk was not available for such use.

Inventories of products designated as Class I milk on hand at a fluid milk plant at the beginning of any month during which such plant becomes a fluid milk

plant for the first time should likewise be subtracted from the Class II utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

Shrinkage should be determined by subtracting from the total pounds of skim milk and butterfat received by the handler his total established utilization of skim milk and butterfat, respectively, in various products. Shrinkage not in excess of 2 percent of the handler's receipts of producer and other source milk should be prorated between producer and other source milk on the basis of the pounds received from each source. None of the shrinkage should be assigned to milk received from other fluid milk plants because shrinkage on such milk will be allowed to the transferring handler. A plant which is operated in a reasonably efficient manner and for which complete and accurate records of receipts and utilization are maintained should have total shrinkage of less than 2 percent of total receipts. It is concluded that shrinkage which is not more than 2 percent of total receipts of producer milk and other source milk used to produce a Class II product should be classified as Class II milk and any shrinkage in excess of this quantity should be classified as Class I milk.

Transfers. Classification of butterfat and skim milk used in the production of Class II milk items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of. However, some Class I items may be disposed of to other plants for Class II use. Classification of any product so transferred to another plant should under certain circumstances be determined according to its utilization in the plant to which transferred.

Milk, skim milk or cream, or other products designated as Class I milk transferred by a handler to the fluid milk plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee-plant for such assignment after prior allocation of shrinkage and other source milk as described below. On the other hand, if the transferring handler had other source milk during the month, the assignment of products transferred to another plant to the Class I utilization of such plant should be limited so that other source milk in the transferring handler's plant will not be allocated to Class I milk while producer milk is allocated to Class II milk in the transferee-handler's plant.

Milk, skim milk and cream disposed of to a nonfluid milk plant, including milk which is diverted (sent directly to the nonfluid milk plant from the producer's farm) should be classified as Class I milk, unless certain conditions are met. One of these conditions is that the operator of the nonfluid milk plant, if requested, must make his books and rec-

ords available to the market administrator for the purpose of verifying the receipt and utilization of milk in such nonfluid milk plant. Provision for verification by the market administrator is reasonable and necessary to assure that producer milk will be paid for in accordance with its utilization. As mentioned heretofore, items of Class I milk transferred to a producer-handler should not be subject to reclassification.

The order class prices apply only to producer milk. It is necessary, therefore, if a plant has butterfat or skim milk other than that received in milk from producers, to determine the quantities of milk in each class to be assigned to producers. The milk of producers who are primarily engaged in supplying the Appalachian market should be assigned to Class I utilization first. This is necessary to insure the stability of the classified pricing program of the order. If the order permitted handlers to obtain other source milk whenever it was advantageous to do so for Class I use while producer milk in the plant was utilized in Class II, the order would not be effective in carrying out the purposes of the act. Also, the market would be deprived of a dependable supply of milk. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in § 923.46 of the attached order.

The provision for allocation of other source milk to Class II should be modified so that milk transferred or diverted from a regulated plant to a non-regulated plant for custom packaging and return to the first plant will not be considered as a Class I sale and other source milk at the regulated plant. The record indicates that some milk distributed from plants which would be regulated pursuant to this proposed order is custom packaged in this way. If such an exception to the assignment procedure is not provided it could result in a duplication of Class I sales in that the same milk might be assigned to Class I when transferred to the non-fluid milk plant and again when distributed on routes in packaged form.

The exemption thus provided should not be construed, however, as a modification of the fluid milk plant definition. The proposed order provides that any plant supplying Grade A milk or skim milk to a regulated distributing plant during the months of February through July would become subject to regulation. This provision is for the purpose of assuring that the Class I sales of the market will not be displaced through the acquisition by handlers of seasonal surpluses from other markets.

The custom bottling provision herein found necessary does not alter this qualification standard. To alter the plant definition to accommodate custom bottling operations might open the way to the removal of Class I sales of producers milk from the pricing provisions of the order at the season of the year when considerable volumes of Grade A milk are generally available at surplus prices.

The record does not suggest a means by which such displacement could be avoided.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month.

(c) *Class prices.* Class I prices should be established at a level which, in conjunction with the Class II prices herein-after concluded to be appropriate, will result in returns to producers high enough to maintain an adequate but not excessive supply of quality milk to meet the requirements of the marketing area.

The maintenance of stable conditions in the market requires that Class I prices be adjusted whenever the supply of milk is out of line in relation to sales of milk for fluid use. If prices remain too low, insufficient quantities of milk will be produced to assure that the Class I market will be fully supplied. Conversely, if prices are too high, production will be overstimulated and consumption curtailed. This would cause more milk to be produced than is needed to satisfy the demand for Class I milk, resulting in the development of unnecessary and uneconomic surpluses.

When milk produced locally is insufficient to meet the Class I needs of the market supplemental supplies of Grade A milk are purchased by handlers in the Appalachian area from plants located over a wide geographic area. Prices of this milk fluctuate to a considerable extent with the value of milk produced for manufacture. Other items which determine the prices at which such milk will be available to Appalachian handlers include the cost of transporting such milk to the marketing area and the alternative outlets for such milk.

Proper recognition must be given the prices at which alternative sources of supply are available, especially since any milk plant wherever located may, by meeting the prescribed qualifications, become a fluid milk plant under the order. It is necessary, therefore, that the Class I price in the proposed Appalachian milk marketing order should not be set at levels which will bring the cost of such milk above the cost of obtaining Grade A milk supplies regularly from other sources.

The Class I price for milk containing 4 percent butterfat established by the Virginia Milk Commission for southwestern Virginia averaged \$6.10 for the year 1953. The stated Class I price of most of the principal handlers throughout the area paying producers on a classification basis was approximately the same. As indicated elsewhere in this decision, not all producer milk utilized by handlers in dispositions defined as Class I in the attached proposed order was paid for at the stated Class I price. One of the larger handlers paid producers one dollar above the local condensery price for milk sold for fluid consumption on contracts to governmental agencies. Milk sold for buttermilk was paid for by some handlers at the local condensery price and by others at 50 cents above such price. Skim milk used by handlers in the area in flavored milk drinks are frequently paid for at the manufacturing prices. The local condensery price was approximately \$3.25

per hundredweight for 4 percent milk in December 1953, and was in some months during the year even below this figure.

The Class I price should be fixed in relation to the general level of the value of milk used to produce manufactured dairy products. To achieve this end a basic price should be adopted which will reflect this general level and to which differentials should be added to reach the appropriate Class I price. Such basic price should be the higher of (a) the average of the prices paid by the 15 "Midwestern Condenseries," (b) a price computed on the basis of the daily quotations for 92 score butter at Chicago and prices paid for nonfat dry milk solids f. o. b. manufacturing plants in the Chicago area, or (c) the average of the prices paid for milk received from dairy farmers by selected manufacturing plants in the local area.

The purpose of such basic price is to give consideration to the national economic factors underlying the price for milk for manufacturing uses, which prices influence the local market prices. Prices for milk used for fluid purposes in competitive markets are related to the prices paid for milk used for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is countrywide, prices of manufactured dairy products reflect, to a large extent, changes in general economic conditions affecting the supply and demand for milk. For these reasons, fluid milk markets have used butter, nonfat dry milk solids, and cheese prices, or the prices paid by condenseries with differentials over these basic or manufacturing prices to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk, transportation costs to the fluid market, and to furnish the necessary incentive to get such milk produced.

The basic formula proposed herein is essentially the same as that used under the Knoxville, Nashville, and Memphis orders and similar to those used in many other federally regulated markets. The price computed under the formula would have averaged \$3.85 for 1953. The differential to be added to this basic price in determining the Class I price would be applicable to all skim milk and butterfat included in the Class I definition of the proposed order. Consequently, the total quantities of producer milk classified in Class I under the order would be significantly greater than the quantities of producer milk now allocated to Class I under the various classification schemes now in effect in the market. It is concluded that the differentials to be added to the basic price should be \$1.70 for the months of March through July and \$2.10 for all other months.

The average Class I price which would have been fixed under this formula during 1953 was \$5.75. The average stated Class I price for major handlers in the market for the same period was over \$6.00. The recommended formula would have fixed a price of \$5.03 for the month of July 1954.

Class I prices should be announced by the market administrator by the sixth day of the month. In order to do this, it is necessary to use price quotations for the preceding month in calculating the basic formula price.

Handlers contended that the Class I prices under the Appalachian order should be the same as that provided in Federal Order No. 88, regulating the handling of milk in the Knoxville, Tennessee, marketing area. There was no showing in the record that marketing conditions in the two areas are the same. No major segments of the production area for the two markets overlap, and the shifting back and forth of producers between the two markets is not general. The principal sales areas of handlers in the two markets are widely separated, and competition between handlers in the two markets prevails in but few places. The Class I pricing herein provided would not change materially the relative position of handlers in the Appalachian market with regard to such competition.

Class I prices to producers, historically, have been higher in the Appalachian area than the Class I prices provided by the Knoxville order. There is no evidence in the record that the pricing of Class I milk in the Appalachian area has in the past been based directly on the Class I prices prevailing in the Knoxville market, or that such a basis of pricing for the Appalachian market would be appropriate at this time.

Class II price. The Class II price should be at such a level that handlers will accept and market whatever quantities of milk in excess of Class I needs may arise from time to time. The price, however, should not be so low that handlers will be encouraged to procure milk supplies solely for the purpose of converting them into Class II products.

In order to have an adequate supply of producer milk in the fall and winter months, handlers accept surplus milk from producers during the months of flush production. The Class II uses of milk disposed of during the flush production season are not, on the whole, as profitable outlets as in the fall of the year when the supply of producer milk available for Class II is lower. With a limited supply of milk for Class II, the market for those products which will command the best return are served first. During those months of high production, when the supply is excessive, large quantities of milk are disposed of for use in those products which are least profitable or actually result in a loss to those handlers receiving milk from producers.

Handlers testified that they were experiencing some difficulties at the time of the hearing in disposing of excess milk to manufacturing plants in the area, and they anticipated further difficulties in this regard with the approaching seasonal increases in production. At the peak of the 1953 production season, local milk manufacturing plants were pushed to capacity production by reason of this increased receipt of ungraded milk from their regular shippers. Consequently, these manufacturing plants accepted but limited quantities of surplus milk from

Appalachian handlers. It was indicated at the hearing that these local manufacturing plants would accept but limited quantities of excess producer milk from fluid milk plants in the future.

Prices paid by manufacturing plants may differ because of changes in the relative prices of the products which they manufacture. Handlers will dispose of excess milk to those plants which are paying the highest price at the time of such disposal. Because of small volume and inefficient means of handling, it is possible that some handlers may, at times, incur losses in handling their necessary reserve supply of milk. The handling of such surplus milk is incidental, however, to the handling of fluid milk.

The pricing of milk in the months of flush production should be at the rate at which milk produced for the market will be handled so that such surplus milk production will not disrupt the orderly marketing of milk. The level of such pricing should not be below that paid for ungraded milk, since such pay prices represent the lowest value in the milkshed for milk for manufacturing purposes. Handlers who need and desire the entire output of producers during periods of short supply should assume the responsibility of paying producers at least the competitive manufacturing prices for Class II milk throughout the months of flush production. During the months of short production a higher level of prices for Class II milk should be provided in the order so as to encourage the transfer of milk from manufacturing uses to fluid uses during the fall and winter months of short supply.

The Class II price for the months of March through August should be the average of the prices paid for milk received from dairy farmers by selected manufacturing plants in the area. The nine such plants whose pay prices would be so used were proposed by producers at the hearing. Two of these plants are located in southwestern Virginia, three in Tennessee, two in Kentucky, and one in each of the States of North Carolina and South Carolina. Several of the plants are the principal buyers of ungraded milk in the milkshed of the proposed marketing area.

For each of the months of September through February the Class II price should be the higher of either the price computed pursuant to a butter-nonfat solids formula which will reflect changes in manufactured product values in the general area; or the average of the prices paid by the nine local manufacturing plants.

Provision is made in the attached order which will permit a handler to divert directly to manufacturing plants any milk clearly not needed in his own operations.

Butterfat differentials. As pointed out previously herein, it is concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II prices of milk in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in value due to variations in the butter-

fat content of each product. The values resulting from multiplying the average price of 92-score butter at Chicago by 0.120 for Class I milk and the New York 92-score butter price by 0.110 for Class II milk will provide an appropriate basis for adjusting such prices in this market, since they will reflect changes in the central market prices of butterfat. The basing point from which such adjustments are made should be 4.0 percent butterfat. This is the basis now used in the Appalachian marketing area.

The use of butterfat differentials in this manner follows standard practices in most fluid milk markets for adjusting for butterfat variations. In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This will permit the announcement of the Class I differential at the same time that the Class I price is announced.

Class II prices and butterfat differentials will not be announced until after the end of the month. Although handlers will now know the cost of such milk as it is utilized, they will know that their cost will follow that of their principal competitors for manufactured outlets.

The butterfat differential used in making payments to producers should be calculated at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the actual sale value of their butterfat at the class prices provided in the order. The producer butterfat differential in no way affects the handlers' cost of milk but merely prorates returns among producers whose milk differs in butterfat test.

The record indicates that the average test of producer receipts exceeds that of Class I sales. The butterfat differentials recommended herein for Class I and Class II milk should tend to encourage the production of milk with a fat test more in line with the fat requirements of the market.

Location differentials. It was proposed at the hearing that handlers be allowed a location differential with respect to milk moved from a receiving plant to a processing plant.

The record discloses that some of the milk normally supplied to the marketing area is received by handlers at a distance from the plant which processes and distributes the milk. In addition, some of the milk is brought to the marketing area in packaged form.

The minimum Class I price to be paid for producer milk should not be dependent upon the type of plant receiving the milk. Neither should milk delivered to one point within the proposed marketing area be priced differently than that delivered to any other point in the area. However, to the extent that milk is received elsewhere from producers and brought to the marketing area by a handler, the handler has assumed a trans-

portation cost which might otherwise be borne by producers. For this reason, the Class I price should be adjusted downward in the case of plants which assume the cost of hauling the milk to the marketing area.

It is customary for handlers to pay producers delivering milk to country receiving stations a lesser price per hundredweight than is paid producers delivering directly to bottling plants. To the extent that this represents a lower price because of the location of the milk, such difference in value should be recognized under the order. It is concluded, therefore, that the Class I price should be reduced for those plants which are outside the marketing area by 10 cents per hundredweight of milk for the first 50 miles and by 1.5 cents per hundredweight of milk for each additional 10 miles or fraction thereof that such plants are from a central place in the primary center of consumption in the proposed area. Kingsport, Tennessee, is such place in the Appalachian marketing area. The location differential adjustment and the rate thereof herein provided are representative of those prescribed in other Federal milk marketing orders and is related to the cost of hauling milk by an efficient means to the market.

Prices paid producers supplying plants to which location differentials apply should be reduced to reflect the lower value of such milk f. o. b. the point to which delivered.

No adjustment should be made in the Class II price for location to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk. This is true because of the low cost per hundredweight of milk involved in transporting manufactured products. The prices shown in the record paid for ungraded milk received at various sections of the milkshed do not indicate any difference in value associated with location.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk in the most advantageous possible method. Prices paid producers for such milk should not be made dependent upon the method employed by the handler in disposing of such milk, otherwise part of the incentive for keeping handling cost at a minimum is removed. To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that any milk transferred be assigned to any Class II use remaining in the transferee plant after a maximum assignment of 5 percent of the direct producer receipts to Class II milk.

(d) **Distribution of the proceeds to producers.** The individual handler type of pool should be included in the order as a means of distributing to producers the returns from the sale of their milk. Under this type of pool, the minimum prices will be uniform to all producers delivering their milk to the same handler. The "blend", "base" and "excess" prices, as the case may be, will depend

on the proportion of the producers' milk used in Class I and Class II milk by the handler receiving his milk. Although each handler subject to the order will be required to pay uniform minimum prices to all the producers who deliver to him during each month the minimum blend prices payable to producers by the various handlers will differ according to the variation among handlers in the proportion of milk used in each class.

The record indicates that no handler in the area is carrying an undue proportion of excess milk in order to supply other handlers with supplemental milk. Under these conditions an individual-handler pool in the Appalachian marketing area will tend to result in optimum allocation of producer milk among handlers according to Class I needs of the handler and in maximum returns to producers from their milk.

Base and excess plan. A "base and excess" plan of distributing the returns for milk among producers should be employed in connection with the individual-handler pool.

Base and excess plans, although they vary considerably among handlers, are commonly used throughout the milkshed area. The base and excess method of distributing milk returns during the months of flush production has wide support among both producers and handlers and should be continued. Interruption in the use of a base plan at this time might result in increased seasonality of production to the detriment of the market.

Because of the seasonal variations in the production of milk, there is a need for an incentive to maintain production in the fall and winter months relative to spring and summer levels. Some handlers have difficulty in utilizing efficiently all milk delivered to them in the months of seasonally high production. By providing returns related directly to a producer's ability to deliver additional milk in the fall and winter as compared with deliveries during the season of flush production, a production pattern more closely fitted to the sales pattern of fluid milk and fluid milk products will be encouraged.

The base-excess plan proposed by producers would establish for each producer in the market a base which would depend upon his deliveries of milk to fluid milk plants during the six-month period, September through February. During these months, as well as in March, all producers would receive the same "blend", or average, price paid by the handler to which they deliver their milk.

For each of the months of April through August, separate uniform prices for "base milk" and "excess milk" would be computed so that Class I sales would first be allotted to "base milk." Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days in the month of which he delivers milk to any fluid milk plant. The "excess milk" price would be the minimum order Class II price, unless the total Class I sales of the handler exceed the total quantity of base milk received from producers during the month. In this case, the fact that excess milk was

used for Class I sales would be reflected in the payment to be made for such milk, or in the excess blend price.

The daily base of each producer would be calculated by the market administrator by dividing the total pounds of milk received by all handlers, from such producer during the months of September through February, by the number of days from the first day milk is received from such producer during those months to the last day of February inclusive, but not less than 120 days. On or before April 1st of each year the market administrator would be required to notify each producer and the handler receiving milk from him, the daily base established by such producer. This will allow new producers a limited period during which their milk is needed by the market to establish a base at the full rate of their average production.

It is necessary to provide certain rules in connection with the establishment and transfer of bases in order to provide reasonable administrative workability of the plan. To accomplish this, and to preserve the effectiveness of the base plan, transfers of bases should be limited to the entire bases of producers who retire from farming. In cases of death or dissolution of joint production arrangements, such as landlord-tenant relationships, similar transfers should be permitted. Since the base plan is effective in determining producer payments in only five of the twelve months in each year and since all producers must establish a new base each year, other provisions than those contained herein for the establishment and transfer of bases are unnecessary.

The uniform prices, including uniform base and excess prices, which are required to be paid producers by each handler should be computed for milk containing 4.0 percent butterfat which is in accordance with past and current market practices. In distributing proceeds to producers, a differential should be applied to recognize different values of milk in accordance with its butterfat content. This differential should be determined on the basis of the weighted average value of producer butterfat according to its utilization at the class prices of the order.

Location differentials heretofore discussed should be applied to prices paid producers.

Payment to producers. The order should provide that each handler with respect to milk received from a producer, for which payment is not made to a co-operative association, shall pay such producer at not less than the applicable uniform price(s) on or before the 15th day after the end of each month. With respect to the producers whose milk was caused to be delivered by a cooperative association which is authorized to collect payment for such milk, the handler shall, if requested in writing by the co-operative association, pay such co-operative association on or before the 13th day after the end of such month an amount equal to the sum of the individual payments otherwise payable to such producer.

Provision should also be made for the handler, if authorized in writing by the

producer, to make proper deductions for goods or services furnished to or for payments made on behalf of the producer. At the time final settlement is made for milk received from producers during the month the handler should be required to furnish to each producer a supporting statement. Such statement would list the pounds and butterfat tests of milk received from him, together with the rates of payment for such milk and a description of any deductions claimed by the handler.

(e) Administrative provisions. Provisions should be included in the order with respect to the administrative steps necessary to carry out the proposed regulation.

In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk are included. Such other terms as are defined in the attached order are common to many other Federal milk orders.

Market administrator. Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agency essential to the proper functioning of such office.

Records and reports. Provisions should be included in the order requiring handlers to maintain adequate records of their operations and to make the reports necessary to establish classification of producer milk and payments due therefor. Time limits must be prescribed for filing such reports and for making the payments to producers.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, together with facilities which are necessary to determine the accuracy of information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the order.

In addition to the regular reports required of handlers, provision is made for handlers to notify the market administrator of their intentions to import other source milk. Such information on a market wide basis may assist handlers in locating local sources of producer milk and expedite the transfer of such milk among handlers. It is necessary that handlers retain records to prove the utilization of the milk and that proper payments were made to producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore becomes necessary to keep such records for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain such books and records and on the period of time in which

obligations under the order shall terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F. R. 444). That decision covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

Expense of administration. Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 5 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on (a) producer milk (including such handler's own production), (b) other source milk at a fluid milk plant which is classified as Class I milk, and (c) Class I milk disposed of on routes in the marketing area from a nonfluid milk plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by some handlers to supplement local producer supplies of milk. Several handlers obtain a portion of their milk supply from their own herds. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers' own production) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute limited quantities of Class I milk in the marketing area. These plants must be checked to verify their status under the order. Assessment of administrative expense with respect to such milk sold in the marketing area will help to defray the costs of such checks.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 5 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 5 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing marketing services to producers, such as verifying of tests and weights and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producer receiving the service. If a cooperative association is performing such services for any member producers and is approved for such

activities by the Secretary, the market administrator may accept this in lieu of his own service.

There is a need for a marketing services program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are based on the pricing provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program is to furnish producers with current market information. Detailed information regarding market conditions is not now regularly available either to producers or to cooperative associations. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

To enable the market administrator to furnish such services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. Comparison of the extent of the milkshed and the volume of milk involved with that of several other markets now under Federal regulation leads to the conclusion that this will reflect the maximum cost of such services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

General findings. (a) The proposed marketing agreement and the order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to § 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interests; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Order of the Secretary directing the conduct of a referendum; determination of a representative period; and designation of referendum agent. Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the attached order regulating the handling of milk in the Appalachian marketing area) who, during the month of August 1954, which month is hereby

determined to be the representative period for such referendum, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order, to determine whether such producers favor the issuance of the order which is filed herewith.

Hobart E. Crone is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this decision is filed with the Hearing Clerk, United States Department of Agriculture.

Marketing agreement and order, as amended. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Appalachian Area," and "Order Regulating the Handling of Milk in the Appalachian Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, which will be published with this decision.

This decision filed at Washington, D. C., this 7th day of September 1954.

[SEAL]

EARL L. BUTZ,
Assistant Secretary.

Order¹ Regulating the Handling of Milk in the Appalachian Marketing Area

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¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

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AUTHORITY: §§ 923.0 to 923.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 923.0 *Findings and determinations.*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Appalachian marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions thereof, will tend

to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the said marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expense, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as the Secretary may prescribe with respect to all (a) receipts of producer milk including such handler's own production, (b) other source milk at a fluid milk plant which is classified as Class I milk and, (c) Class I disposed of during the month on routes (including routes operated by vendors) to retail or wholesale outlets (except fluid milk plant) located in the marketing area from a nonfluid milk plant.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Appalachian marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

§ 923.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 923.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 923.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 923.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 923.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the

Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 923.6 *Appalachian Marketing Area.* "Appalachian Marketing Area," hereinafter called the "marketing area," means all the territory within the counties of Sullivan, Washington, and Greene in Tennessee; Washington and Wise in Virginia; and Harlan in Kentucky.

§ 923.7 *Fluid milk plant.* "Fluid milk plant" means (a) any plant from which a volume of Class I milk equal to an average of more than 1,000 pounds per day, or not less than 2.0 percent of the approved milk of such plant is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other fluid milk plants) located in the marketing area, (b) any plant which during the months of February through July ships grade A milk or skim milk to a plant qualified pursuant to paragraph (a) of this section or (c) any plant which during the months of August through January receives milk from farmers holding dairy farm permits or ratings issued by a health authority having jurisdiction in the marketing area, and from which milk, skim milk or cream is moved during the month to a plant qualified pursuant to paragraph (a) of this section: *Provided,* That if a portion of a plant is operated separately and no approved milk is received in such portion of the plant, it shall not be considered as part of a fluid milk plant pursuant to this section.

§ 923.8 *Approved plant.* "Approved plant" means a fluid milk plant or any plant from which Class I milk is delivered (including delivery by a vendor or sale from a plant store) during the month to retail or wholesale outlets (except fluid milk plants) located in the marketing area.

§ 923.9 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk manufacturing, processing or bottling plant other than a fluid milk plant.

§ 923.10 *Handler.* "Handler" means any person in his capacity as the operator of an approved plant.

§ 923.11 *Producer.* "Producer" means any person except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a fluid milk plant, or (b) diverted by the operator of a fluid milk plant for his account to a nonfluid milk plant (1) any day during the months of March through July, and (2) on not more than 15 days during any of the months of August through February: *Provided,* That milk so diverted shall be deemed to have been received by the diverting handler at the location of the plant from which it was diverted.

§ 923.12 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the fluid milk plant directly from producers, or (b) diverted from a fluid milk plant to a nonfluid milk plant in accordance with the conditions set forth in § 923.11.

§ 923.13 *Approved milk.* "Approved milk" means any skim milk or butterfat contained in producer milk or in milk, skim milk or cream which is received from a fluid milk plant, except the plant of a producer-handler, and which is approved for distribution as Class I milk by the agency issuing the health permit to such plant.

§ 923.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of products designated as Class I milk pursuant to § 923.41 (a), except (1) such products approved by the appropriate health authority for distribution as Class I milk in the marketing area which are received from fluid milk plants, or (2) producer milk; and

(b) Products designated as Class II milk pursuant to § 923.41 (b) (1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 923.15 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and an approved plant from which Class I milk is disposed of in the marketing area but who receives no milk from other dairy farmers.

§ 923.16 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

§ 923.17 *Base milk.* "Base milk" means milk received at a fluid milk plant from a producer during any of the months of April through August which is not in excess of such producer's base for such month computed pursuant to § 923.81.

§ 923.18 *Excess milk.* "Excess milk" means either (a) milk received at a fluid milk plant from a producer during any of the months of April through August, which is in excess of base milk received from such producer during such month, or (b) milk received during such month from a producer for whom no base can be computed pursuant to § 923.80.

MARKET ADMINISTRATOR

§ 923.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 923.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 923.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 923.95 (1) the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 923.94, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 923.30 and 923.31, or payments pursuant to §§ 923.90 through 923.95;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this part;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) On or before the date specified, publicly announce and notify each handler in writing of the following: (1) The 6th day of each month, the Class I price,

and the Class I butterfat differential, both for the current month; (2) the 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (3) the 10th day after the end of each month, the uniform price(s), and the producer butterfat differential.

REPORTS, RECORDS, AND FACILITIES

§ 923.30 *Reports of receipts and utilization.* On or before the 6th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator for each of his approved plants for such month as follows:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in products designated as Class I milk pursuant to § 923.41 (a) (1) received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of products designated as Class I milk pursuant to § 923.41 (a) (1) on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

§ 923.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his fluid milk plants his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of April through August, the total pounds of base and excess milk, (iii) the days on which milk was received from such producer if less than a full month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment, together with the price paid and the amount and nature of any deductions;

(2) On or before the first day other source milk is received in the form of milk, fluid skim milk or cream at his fluid milk plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) Such other information with respect to his utilization of butterfat and skim milk as the market administrator may prescribe.

§ 923.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market

administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and other milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and other milk products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 923.33 Retention of records. All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 923.40 Skim milk and butterfat to be classified. The skim milk and butterfat at fluid milk plants, which is required to be reported pursuant to § 923.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 923.41 through 923.46.

§ 923.41 Classes of utilization. Subject to the conditions set forth in §§ 923.43 and 923.44, the classes of utilization shall be as follows:

(a) **Class I milk.** Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen cream) and any mixture in fluid form of skim milk and cream (except sterilized products in hermetically sealed containers, ice cream mix, and eggnog); and (2) not accounted for as Class II milk;

(b) **Class II milk.** Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section; (2) contained in inventory of products designated as Class I milk pursuant to paragraph (a) of this section on hand at the end of the month; and (3) in shrinkage assigned to Class II pursuant to § 923.42.

§ 923.42 Shrinkage. The market administrator shall determine the assign-

ment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of butterfat and skim milk in the fluid milk plant(s) of the handler;

(b) Multiply the pounds of skim milk and butterfat in producer milk (except milk diverted pursuant to § 923.11) and other source milk by 0.02;

(c) Multiply the pounds of butterfat and skim milk, respectively, determined pursuant to paragraph (a) or (b) of this section, whichever is less, by the percentage of butterfat and skim milk classified pursuant to § 923.41 (a) and (b) (1) (except shrinkage determined pursuant to paragraph (a) of the section) which is in Class II milk. The resulting amounts of skim milk and butterfat shall be classified as Class II milk; and

(d) Assign the shrinkage of skim milk and butterfat classified as Class II milk pro rata to producer milk and other source milk.

§ 923.43 Responsibility of handlers and reclassification of milk. (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 923.44 Transfers. Skim milk or butterfat disposed of from a fluid milk plant shall be classified:

(a) As Class I milk if transferred in the form of products designated as Class I milk in § 923.41 (a) (1) to a fluid milk plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in the reports submitted by them to the market administrator pursuant to § 923.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 918.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *And provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers.

(b) As Class I milk if transferred to a producer-handler in the form of products designated as Class I milk in § 923.41 (a) (1);

(c) As Class I milk if transferred or diverted in bulk form as milk or skim milk to a nonfluid plant located in the marketing area or not more than 50 miles by the shortest highway distance as determined by the market administrator from the nearest point in the marketing area unless:

(1) The handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both buyer and seller on or

before the 6th day after the end of the month within which such transaction occurred;

(2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(3) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

(d) As Class I milk is transferred in bulk form as cream to a nonfluid plant unless:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims Class II in his report submitted to the market administrator pursuant to § 923.30 on or before the 6th day after the end of the month within which such transaction occurred;

(3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

§ 923.45 Computation of the skim milk and butterfat in each class. For each month, the market administrator shall correct for mathematical and for other obvious errors, the reports of receipts and utilization for the fluid milk plants of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 923.46 Allocation of skim milk and butterfat classified. After making the computations pursuant to § 923.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 923.42 (d);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in products defined as Class I milk pursuant to § 923.41 (a) received in consumer packages from a nonfluid milk plant or the pounds of skim milk classified as Class I milk and transferred or diverted during the month to such nonfluid milk plant whichever is less.

(3) Subtract from the remaining pounds of skim milk in Class II milk the remaining pounds of skim milk in other source milk: *Provided*, That if the receipts of skim milk in other source milk

are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of products designated as Class I milk pursuant to § 923.41 (a) (1) on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from the fluid milk plants of other handlers in the form of products designated as Class I milk in § 923.41 (a) (1), according to its classification as determined pursuant to § 923.44 (a);

(6) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(7) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section;

(c) Determine the weighted average butterfat content of the Class I and Class II milk allocated to producer milk.

MINIMUM PRICES

§ 923.50 *Basic formula price.* The highest of the prices computed pursuant to paragraphs (a) or (b) of this section and § 923.51 (b), rounded to the nearest whole cent, shall be known as the basic formula price.

(a) To the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the Chicago butter price for the month by 0.6.

(b) The price per hundredweight computed as follows: Multiply the Chi-

cago butter price by 4.0, add 20 percent thereof, and add to such sum 3½ cents for each full ½ cent that the average of carlot prices per pound of nonfat dry milk solids, spray and roller process, for human consumption, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture during the delivery period, is above 5 cents.

§ 923.51 *Class prices.* Subject to the provisions of §§ 923.52 and 923.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month, plus \$2.10 during the months of August through February and plus \$1.70 during all other months.

(b) *Class II milk price.* For the months of March through August, the Class II milk price shall be the price computed pursuant to subparagraph (1) of this paragraph and for all other months the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

Company and Location

Pet Milk Co., Mayfield, Ky.
Pet Milk Co., Bowling Green, Ky.
Pet Milk Co., Greenville, Tenn.
Pet Milk Co., Abingdon, Va.
Carnation Co., Murfreesboro, Tenn.
Carnation Co., Statesville, N. C.
Borden Co., Lewisburg, Tenn.
Borden Co., Chester, S. C.
Carnation Co., Galax, Va.

(2) Add the amounts obtained pursuant to subdivisions (i) and (ii) of this subparagraph, and subtract 75 cents therefrom.

(i) Multiply by 4.80 the simple average of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at New York as reported during the month by the Department of Agriculture;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, by the Department of Agriculture.

§ 923.52 *Butterfat differential to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 923.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price.* Multiply by 0.12 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery

butter per pound at Chicago, as reported by the Department of Agriculture during the previous month, and round to the nearest one-tenth cent.

(b) *Class II price.* Multiply by 0.11 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at New York, as reported by the Department of Agriculture during the month, and round to the nearest one-tenth cent.

§ 923.53 *Location differentials to handlers.* For that milk which is received from producers at a fluid milk plant located outside the marketing area and 50 miles or more from the city limits of Kingsport, Tennessee, by shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 923.41 (a) (1) and assigned to Class I pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 923.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the fluid milk plant where such milk is received from producers:

Distance from the city limits of Kingsport (miles):	Rate per hundredweight (cents)
50 but less than 60.....	10
For each additional 10 miles or fraction thereof an additional.....	1.5

Provided, That for purpose of calculating such location differential, products so designated as Class I milk which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 923.46 (a) (1), (2), and (3), and the comparable steps in (b) for such plant, and after deducting from such remainder an amount equal to 0.05 times the skim milk and butterfat contained in the producer milk received at the transferee-plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 923.54 *Use of equivalent prices.* If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 923.60 *Producer-handlers.* Sections 923.40 through 923.46, 923.50 through 923.53, 923.70 through 923.72, 923.80 through 923.83, and 923.90 through 923.96 shall not apply to a producer-handler.

§ 923.61 *Plants subject to other Federal orders.* A plant specified in paragraph (a) or (b) of this section shall be considered as a nonfluid milk plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at

such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 923.30), and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 923.7 (a) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless the Secretary determines that a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except fluid milk plants) in the Appalachian marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant qualified pursuant to § 923.7 (b) or (c) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant has qualified as a fluid milk plant pursuant to § 923.7 (c) for each month during the preceding August through January period.

DETERMINATION OF UNIFORM PRICE

§ 923.70 *Net obligation of handlers.* The net obligation of each handler for producer milk received at his fluid milk plant(s) during each month shall be a sum of money computed by the market administrator as follows: (a) Multiply the pounds of such milk in each class by the applicable class price; (b) add together the resulting amounts; (c) add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price; (d) add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months; and (e) add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified in Class II during the preceding month, or the hundredweight of milk subtracted from Class I pursuant to § 923.46 (a) (4) and (b), whichever is less.

§ 923.71 *Computation of uniform prices for handlers.* For each of the months of September through March, the market administrator shall compute a uniform price for the producer milk received by each handler as follows:

(a) Add to the amount computed pursuant to § 923.70 the total of the location differential deductions to be made pursuant to § 923.92;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(d) Divide the resulting amount by the total hundredweight of producer

milk received by such handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 4.0 percent butterfat content, f. o. b. market.

§ 923.72 *Computation of the uniform prices for base milk and for excess milk for handlers.* For each of the months of April through August, the market administrator shall compute uniform prices for base milk and for excess milk received by each handler as follows:

(a) Add to the amount computed pursuant to § 923.70 the total of the location differential deductions made pursuant to § 923.92;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(d) Subject to the conditions set forth in paragraph (e) of this section, compute the value of excess milk received by such handler from producers by multiplying the quantity of such milk by the Class II price;

(e) Compute the value of base milk received by such handler from producers by subtracting the value obtained pursuant to paragraph (d) of this section from the value obtained pursuant to paragraph (c) of this section: *Provided*, That if such resulting value is greater than an amount computed by multiplying the pounds of such base milk by the Class I price, such value in excess thereof shall be added to the value computed pursuant to paragraph (d) of this section;

(f) Divide the value obtained pursuant to paragraph (e) of this section by the hundredweight of base milk. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for base milk of 4.0 percent butterfat content, f. o. b. market; and

(g) Divide the value obtained pursuant to paragraph (d) of this section by the hundredweight of excess milk in producer milk. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for excess milk of 4.0 percent butterfat content.

BASE RATING

§ 923.80 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the months of September through February by the number of days from the first day milk is received from such producer during said months to the last day of February, inclusive, but not less than 120 days.

§ 923.81 *Computation of base.* The base of each producer to be applied during the months of April through August shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days such producer's milk was received by such handler during the month: *Provided*, That if the producer's milk was not received on a daily basis, the daily base shall be multiplied by the number of days during the month for which the milk production of such producer was received by such handler.

§ 923.82 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall be assigned to the producer for whose account milk is received at a fluid milk plant during the months of September through February.

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(3) The entire daily base of a producer may be removed from one handler to another handler.

§ 923.83 *Announcement of established bases.* On or before April 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

PAYMENTS

§ 923.90 *Payments to producers.* Each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 15th day after the end of each month, each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price computed pursuant to § 923.71 for the months of September through March, and at not less than the uniform price for base milk computed pursuant to § 923.72 with respect to base milk received from such producer and at not less than the uniform price for excess milk computed pursuant to § 923.72 with respect to excess milk received from such producer for the months of April through August, subject to the following adjustments: (1) The butterfat differential pursuant to § 923.91, (2) the location differential pursuant to § 923.92, (3) marketing service deductions pursuant to § 923.95, (4) proper deductions authorized in writing by the producer, and (5) adjustments for errors in calculating payment to such individual producer for past months: *Provided*, That with respect to producers whose milk was caused to be

delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if requested by the cooperative association, pay such cooperative association on or before the 13th day after the end of each month, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph;

(b) In making the payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer from whom he has received milk with a supporting statement in such form that it may be retained by the producer, which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 923.91 *Butterfat differential to producers.* The applicable uniform prices to be paid each producer pursuant to § 923.90 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in the producer milk of such handler allocated to Class I and Class II milk pursuant to § 923.46 (b) by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 923.92 *Location differential to producers.* In making payment to producers pursuant to § 923.90, the applicable uniform prices to be paid for producer milk received at a fluid milk plant located outside the marketing area and 50 miles or more from the city limits of Kingsport, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the fluid milk plant where such milk was received at the following rate:

Distance from the city limits of Kingsport (miles):	Rate per hundredweight (cents)
50 but less than 60.....	10
For each additional 10 miles or fraction thereof an additional.....	1.5

§ 923.93 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, accounts, or verification of weights and butterfat tests of milk or milk products disclose errors, resulting in money due a producer or the market administrator from such handler, or due such handler from the market administrator, the market administrator shall

notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

§ 923.94 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 923.90, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month, and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of this statement, a handler may authorize the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 923.90 (b).

§ 923.95 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month for such month 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as the Secretary may prescribe with respect to all (a) receipts of producer milk including such handler's own production, (b) other source milk at a fluid milk plant which is classified as Class I milk and, (c) Class I disposed of during the month on routes (including routes operated by vendors) to retail or wholesale outlets (except fluid milk plants) located in the marketing area from a nonfluid milk plant.

§ 923.96 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator re-

ceived the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 923.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 923.101.

§ 923.101 *Suspension or termination.* The Secretary may suspend or terminate this part or any provisions of this part whenever he finds this part or any provisions of this part obstructs or does not

tend to effectuate the declared policy of the act. This part shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 923.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 923.103 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 923.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his Agent or Representative in connection with any of the provisions of this part.

§ 923.111 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F. R. Doc. 54-7177; Filed, Sept. 10, 1954; 8:55 a. m.]

Commodity Stabilization Service

[7 CFR Part 722]

1955 CROP OF UPLAND COTTON

NOTICE OF DETERMINATIONS TO BE MADE WITH RESPECT TO A NATIONAL MARKETING QUOTA, NATIONAL, STATE, AND COUNTY ACREAGE ALLOTMENTS, AND FORMULATION OF REGULATIONS PERTAINING TO FARM ACREAGE ALLOTMENTS

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301, 1342, 1355, 1357, 1362, 1363, 1365, 1373), the Secretary of Agriculture is preparing to determine whether a national marketing quota is required to be proclaimed for the 1955

crop of upland cotton, to provide for conversion of such quota into a national acreage allotment, and to formulate regulations for apportioning the national acreage allotment to States and the State acreage allotments to counties, and for establishing farm acreage allotments.

Section 342 of the act provides that whenever during any calendar year the Secretary of Agriculture determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. This section provides further that the Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton adequate, together with (1) the estimated carry-over at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton. Under the provisions of this section of the act the national marketing quota for any year may not be less than ten million bales or one million bales less than the estimated domestic consumption plus exports of cotton for the marketing year ending in the calendar year in which such quota is proclaimed, whichever is smaller. The proclamation of the national marketing quota is required to be made not later than October 15 of the calendar year in which the determination is made that the total supply of cotton exceeds the normal supply.

As defined in section 301 of the act, for purposes of the determinations provided for in section 342 of the act, "total supply" of cotton for any marketing year is the carry-over at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins, and the estimated imports of cotton into the United States during such marketing year; "carry-over" of cotton for any marketing year is the quantity of cotton on hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current; "normal supply" of cotton for any marketing year is the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus 30 per centum of such consumption and exports as an allowance for carry-over; and "marketing year" for cotton is the period August 1-July 31.

Section 344 (a) of the act provides that whenever a national marketing quota is proclaimed under section 342, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be produced in the next calendar year. The national acreage allotment for cotton is that acreage, based upon the national average yield per acre

of cotton for the five years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to make available from such crop an amount of cotton equal to the national marketing quota.

If a national acreage allotment is proclaimed for the 1955 crop of upland cotton, such allotment would be apportioned to the States as provided by section 344 (b) of the act and Public Law 28, 81st Congress (63 Stat. 17), on the basis of the acreage planted to cotton during the five calendar years 1948, 1950, 1951, 1952, and 1953, with adjustments for abnormal weather conditions during such period.

It is expected that the regulations pertaining to the apportionment of the State acreage allotment among counties and farms will be substantially the same as the regulations issued with respect to the 1954 crop of upland cotton, including amendments (18 F. R. 7527, 7836; 19 F. R. 4, 761, 1481), except for provisions made applicable for 1954 only by Public Law 290, 83d Congress, approved January 30, 1954. Public Law 290 also amended the act to provide for making adjustments, beginning with the 1955 crop of cotton, in farm acreage allotments to correct inequities and to prevent hardships. This is one of the purposes provided by law for using State and county acreage reserves. Heretofore, farm cotton acreage allotments established under the Agricultural Adjustment Act of 1938, as amended, other than minimum farm allotments, have been determined by multiplying the adjusted cropland for the farm by a uniform county (or administrative area) cropland factor. Section 344 (f) of the act, as amended by Public Law 290 and by Public Law 690, 83d Congress, approved August 28, 1954, provides, beginning with the 1955 crop of cotton, for apportioning the county acreage allotment, less the county acreage reserve, among farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined on the basis of the acreage planted to cotton on the farm during such three-year period, if the county committee recommends such action and the Secretary determines that such action will result in a more equitable distribution of the county acreage allotment among farms in the county. It is expected that all county committees will carefully consider the authorization in the law to apportion the county acreage allotment, less the county acreage reserve, among farms on the basis of cotton acreage history during the three preceding years rather than on the basis of cropland, as described above. Under Public Law 690, county committees will have wider latitude in establishing farm cotton acreage allotments on a history basis under section 344 (f) (6) of the Agricultural Adjustment Act of 1938, as amended, in that they may in their discretion (1) apportion the county cotton acreage allotment by first establishing minimum farm acreage allotments as provided in section 344 (f) (1) of the act before apportioning the remaining acreage among farms and (2) limit any farm acreage allotment established on the basis of cotton acreage history during

the three preceding years to an acreage not in excess of 50% of the cropland on the farm.

It is expected that the Secretary's authority to approve or disapprove recommendations of county committees regarding apportionment of the county acreage allotment among farms on the basis of cotton acreage history will be redelegated to the Deputy Administrator for Production Adjustment, Commodity Stabilization Service, and that the Deputy Administrator will issue such instructions as may be necessary for carrying out this new provision of law. In this connection, it appears that it will be necessary for the Deputy Administrator to set a closing date for such recommendations to be filed in order that the many computations and determinations incident to the establishment of farm acreage allotments may be completed and allotment notices issued to farm operators prior to the referendum which is required by the Act to be held not later than December 15, 1954.

It is proposed to change the provisions which were contained in the 1954 regulations regarding the reconstitution of farms. Under one proposal being considered, where reconstitution of farms are made for 1955 after farm acreage allotments for 1955 are established prior to the referendum, the allotments for the reconstituted farms would be determined on the basis of the revised data, provided notice of the change in land in the farm is received in the county ASC office by a closing date which will be a date prior to the general date for preparing land for cotton production. In cases where the county ASC office is not advised of the change in land in the farm by the closing date, the same procedure would be followed in establishing the farm acreage allotments for the reconstituted farms, except that (1) in the case of subdivisions the allotments for the several tracts could not exceed the allotment previously established for the parent farm except to the extent required by the minimum allotment provisions, and (2) in the case of a combination (a) the allotment for the reconstituted farm could not exceed the sum of the allotments for the several tracts comprising the reconstituted farm, and (b) the allotment for the reconstituted farm would be subject to the maximum farm allotment provision if it is applicable in the county. Under another proposal being considered, where reconstitutions of farms are made for 1955 after farm acreage allotments for 1955 are established prior to the referendum, the allotments for all reconstituted farms would be established as follows: (1) In the case of subdivisions the allotments for the several tracts could not exceed the allotment previously established for the parent farm except to the extent required by the minimum allotment provisions, and (2) in the case of a combination (a) the allotment for the reconstituted farm could not exceed the sum of the allotments for the several tracts comprising the reconstituted farm, and (b) the allotment for the reconstituted farm would be subject to the maximum farm allotment provision if it is applicable in the county.

It is the Secretary's intention to delay the determinations provided for in section 342 of the act until the October 8, 1954, cotton report of the Crop Reporting Board of the Department is issued in order that the latest available data may be used. In the meantime, it is expected that the regulations discussed above will be issued subject to the condition that they shall become ineffective for purposes of the marketing quota program in the event a national marketing quota program for the 1955 crop of upland cotton is not proclaimed by October 15, 1954.

Prior to making any of the foregoing determinations with respect to the national marketing quota, the national acreage allotment, the apportionment of the national acreage allotment to States and the State acreage allotments to counties, and the formulation of regulations for the establishment of farm acreage allotments for the 1955 crop of upland cotton, consideration will be given to any data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Cotton Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D. C. within fifteen days following the publication of this notice in the *FEDERAL REGISTER*. The date of the postmark will be considered as the date of any submission.

Done at Washington, D. C., this 9th day of September 1954.

[SEAL] J. A. McCONNELL,
Administrator.

[F. R. Doc. 54-7102; Filed, Sept. 9, 1954;
4:39 p. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Economic Regs. Draft Release 68A]

REVISED UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

SUPPLEMENTAL NOTICE OF PROPOSED RULE MAKING

SEPTEMBER 9, 1954.

In the notice of proposed rule making on this matter, published in the *FEDERAL REGISTER* on July 9, 1954 (19 F. R. 2400), it was stated that the Board would consider all relevant matter and communications received on or before September 10, 1954. The Board has been requested by several interested parties to extend the date by which comments must be filed by at least one week. Since the Draft Release proposed a complete revision of the Uniform System of Accounts and the CAB Form 41 Report, matters of great importance to all scheduled air carriers, the Board finds that a one week extension for return of comment should be granted in order to allow this additional comment to be submitted.

Accordingly, the second sentence of the second paragraph of the aforementioned notice is amended to read as follows: "All relevant matter and communications received on or before September 17 will be considered by the Board be-

fore taking final action on the proposed rule."

(Sec. 205 (a); 52 Stat. 984; 49 U. S. C. 425, Interpret or apply section 407; 52 Stat. 1000; 49 U. S. C. 487)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 54-7183; Filed, Sept. 9, 1954;
4:01 p. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11158; FCC 54-1122]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. The Commission has before it a petition filed on June 16, 1954, and amended on July 8, 1954, by the Mid-continent Broadcasting Company, Sioux Falls, South Dakota, and now made part of this docket, requesting an amendment of § 3.606 *Table of assignments*, rules governing television broadcast stations so as to change the offset carrier requirement only of Channel 11 as follows:

City	Channel No.	
	Present	Proposed
International Falls, Minn.	11+	11
Fargo, N. Dak.	11	11+

3. In support of the proposed amendment petitioner urges that it is the permittee of television Station KELO-TV operating on Channel 11 with zero offset carrier at Sioux Falls, North Dakota; that this station is only 234 miles from the assignment of Channel 11 at Fargo, North Dakota, also with zero offset carrier; that such operation may needlessly deprive a large area and population of a television broadcast service; and that the proposed changes comply with the Commission's rules and standards.

4. Authority for the adoption of the proposed amendments is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r) and 307 (b) of the Communications Act of 1934, as amended.

5. Any interested party who is of the opinion that the amendment proposed by petitioner should not be adopted or should not be adopted in the form set forth herein may file with the Commission on or before October 4, 1954, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Com-

mission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

6. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: September 2, 1954.

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-7149; Filed, Sept. 10, 1954;
8:52 a. m.]

[47 CFR Part 12]

[Docket No. 11157; FCC 54-1110]

AMATEUR RADIO SERVICE

TECHNICIAN CLASS OPERATOR PRIVILEGES

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration petitions for rule making filed by James M. Price and Tom A. Walker.

3. The petitions request amendment of Part 12, rules governing Amateur Radio Service, to permit operating privileges for the Technician Class amateur operator in the 50-54 Mc amateur frequency band. One petitioner states that: "The * * * petition is made in the interest of increased utilization of existing amateur assignments and the improvement of techniques in the VHF spectrum by amateur operators * * *. The effect * * * would be to make available to those amateurs holding Technician Class licenses one band of frequencies on which there exists the frequent possibility of two-way communication by sporadic E layer propagation. This fact alone, it is anticipated, will encourage immediate and representative participation by those licensees * * *. The beneficial by-product of such action would be the tapping of the skills possessed by such licensees for the improvement of present amateur VHF techniques."

4. Believing that greater amateur occupancy of, and experimentation in, the amateur frequency bands above 50 Mc is desirable, the Commission is proposing amendment of the rules to provide for operating privileges for Technician Class amateur operators in the 144-148 Mc amateur frequency band as well as the 50-54 Mc band. In addition to the reasons given by the petitioners, the Commission believes that the technician's value to, and participation in, civil defense communications through the Radio Amateur Civil Emergency Service would be considerably enhanced by the amendment proposed herein.

5. Authority for issuance of the amendment contained below is vested in the Commission by virtue of sections 4 (i) and 303 (f), (g), and (r) of the Communications Act of 1934, as amended.

6. Any interested person who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before November 15, 1954 written data, views, or arguments setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments in reply to the original comments may be filed within 15 days from the last day for filing said original data, views, or arguments. No additional comments may be filed unless (1) specifically requested by the Commission, or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

7. In accordance with the provisions of § 1.764 of the Commission's rules, an original and four copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: September 1, 1954.

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Amendment of § 12.23 (d) of Part 12, rules governing Amateur Radio Service, is proposed as follows:

(d) *Technician class.* All authorized amateur privileges in the amateur frequency bands above 50 Megacycles.

[F. R. Doc. 54-7150; Filed, Sept. 10, 1954;
8:52 a. m.]

HOUSING AND HOME FINANCE AGENCY

Home Loan Bank Board

[24 CFR Parts 144, 145]

[No. 7616]

CHARTER AND BYLAWS; OPERATION

ACTION ON PROPOSAL TO LIBERALIZE BONUS PROVISIONS

SEPTEMBER 7, 1954.

Whereas, pursuant to notice duly published in the June 10, 1952 issue of the *FEDERAL REGISTER* (17 F. R. 5255), a hearing was held on July 10, 1952, upon a proposal by this Board, as set forth in its Resolution No. 5235, dated June 4, 1952, to adopt, among other things, certain amendments to the rules and regulations for the Federal Savings and Loan System relating to the payment of bonuses upon share accounts, and

Whereas, careful consideration has been given to such proposed amendments concerning the payment of bonuses upon share accounts.

Resolved, that this Board hereby determines not to adopt the amendments of paragraph (e) of § 144.6 *Amendment to bylaws*, and § 145.3 *Bonus on savings accounts* as set forth in its said Resolution No. 5235 and as noticed for hearing on July 10, 1952.

(Sec. 5 (a) 48 Stat. 132; 12 U. S. C. 1464 (a))

By the Home Loan Bank Board.

[SEAL] J FRANCIS MOORE,
Secretary.

[F. R. Doc. 54-7139; Filed, Sept. 10, 1954;
8:50 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

SULPHUR LEASE OFFER

OUTER CONTINENTAL SHELF OFF LOUISIANA

Pursuant to section 8 of the Outer Continental Shelf Lands Act (67 Stat. 462) and the regulations issued thereunder (43 CFR Part 201), sealed bids addressed to the Director, Bureau of Land Management, Washington 25, D. C., will be received on or before October 13, 1954, at 11 a. m., e. s. t., for the lease of sulphur in certain areas of the outer Continental Shelf, Gulf of Mexico, adjacent to the State of Louisiana. Bids will be opened in the Department of the Interior auditorium, Eighteenth and C Streets NW. Bids may be delivered in person to the auditorium up to 11 a. m., e. s. t., October 13, 1954. Bids received by mail or delivered in person after the above-specified time will not be considered.

All bids must be submitted in accordance with applicable regulations, particularly 43 CFR 201.20, 201.21, and

201.22. For the purposes of this sale the word "officer" in § 201.22 (a) (1) is interpreted to include a duly authorized attorney in fact or representative of a corporation. Bidders are warned against violation of section 1860, Title 18, U. S. Code, prohibiting unlawful combination or intimidation of bidders. Bidders must submit with each bid one-fifth of the amount bid in cash or by cashier's check, bank draft, certified check, or money order payable to the order of the Treasurer of the United States. The leases will provide for a royalty rate of 7½ percent of the gross production or value of the sulphur at the wellhead, but not less than \$1.50 a long ton, and a rental or minimum royalty of \$2 per acre or fraction thereof.

Bids will be considered on the basis of the highest cash bonus offered for a tract but no total bid amounting to less than \$15 per acre will be considered. Sulphur payment, overriding royalty, logarithmic or sliding scale bids will not be considered. No bid for less than a full tract, as listed below, will be considered. The tract numbers shown are

assigned only for the purposes of this sale and are not the same as block numbers designated on the official leasing map.¹ A separate bid in a separate, sealed envelope must be submitted for each tract. The envelope should be endorsed "Sealed bid for sulphur lease, La. (insert number of tract), not to be opened until 11 a. m., e. s. t., October 13, 1954." The right is reserved to reject any or all bids. The tracts offered for bid are as follows:

WEST CAMERON OFFICIAL LEASING MAP No. 1

Tract No.	Acreage	Block	Description
La.-1-S	5,000	245	AH.
La.-2-S	5,000	246	AH.
La.-3-S	5,000	248	AH.
La.-4-S	5,000	249	AH.
La.-5-S	5,000	252	AH.
La.-6-S	5,000	253	AH.
La.-7-S	5,000	254	AH.
La.-8-S	5,000	255	AH.
La.-9-S	5,000	256	AH.
La.-10-S	5,000	257	AH.
La.-11-S	5,000	258	AH.

EAST CAMERON OFFICIAL LEASING MAP No. 2

La.-12-S	5,000	96	AH.
La.-13-S	5,000	97	AH.
La.-14-S	5,000	103	AH.
La.-15-S	5,000	104	AH.
La.-16-S	5,000	105	AH.
La.-17-S	2,114	110	AH.
La.-18-S	5,000	111	AH.
La.-19-S	5,000	114	AH.
La.-20-S	5,000	115	AH.
La.-21-S	5,000	116	AH.
La.-22-S	5,000	122	AH.
La.-23-S	5,000	123	AH.
La.-24-S	5,000	126	AH.
La.-25-S	2,057.89	127	AH.
La.-26-S	2,001.79	128	AH.
La.-27-S	5,000	129	AH.
La.-28-S	5,000	137	AH.
La.-29-S	5,000	138	AH.
La.-30-S	5,000	139	AH.
La.-31-S	5,000	140	AH.
La.-32-S	5,000	151	AH.
La.-33-S	5,000	152	AH.
La.-34-S	5,000	153	AH.
La.-35-S	5,000	154	AH.
La.-36-S	5,000	155	AH.
La.-37-S	5,000	156	AH.
La.-38-S	5,000	157	AH.
La.-39-S	5,000	158	AH.
La.-40-S	5,000	160	AH.
La.-41-S	5,000	161	AH.
La.-42-S	5,000	166	AH.
La.-43-S	5,000	167	AH.
La.-44-S	5,000	178	AH.
La.-45-S	5,000	179	AH.

VERMILION OFFICIAL LEASING MAP No. 3

La.-46-S	5,000	103	AH.
La.-47-S	5,000	104	AH.
La.-48-S	5,000	116	AH.
La.-49-S	5,000	117	AH.
La.-50-S	5,000	119	AH.
La.-51-S	5,000	120	AH.
La.-52-S	5,000	123	AH.
La.-53-S	5,000	124	AH.
La.-54-S	5,000	126	AH.
La.-55-S	5,000	127	AH.
La.-56-S	5,000	163	AH.
La.-57-S	5,000	164	AH.
La.-58-S	5,000	165	AH.
La.-59-S	5,000	178	AH.
La.-60-S	5,000	179	AH.
La.-61-S	5,000	180	AH.
La.-62-S	5,000	183	AH.
La.-63-S	5,000	184	AH.
La.-64-S	5,000	185	AH.
La.-65-S	5,000	188	AH.
La.-66-S	5,000	189	AH.
La.-67-S	5,000	190	AH.
La.-68-S	5,000	193	AH.
La.-69-S	5,000	194	AH.
La.-70-S	5,000	195	AH.

¹ Reduced copies of official leasing maps for the area off Louisiana may be obtained at a cost of \$1 per set from the Bureau of Land Management, Washington 25, D. C., or from the local office, 608 Masonic Temple Building, New Orleans 12, La.

EUGENE ISLAND OFFICIAL LEASING MAP No. 4

Tract No.	Acreage	Block	Description
La.-71-S	5,000	157	AH.
La.-72-S	5,000	158	AH.
La.-73-S	5,000	171	AH.
La.-74-S	5,000	172	AH.
La.-75-S	5,000	175	AH.
La.-76-S	5,000	176	AH.
La.-77-S	5,000	180	AH.
La.-78-S	5,000	181	AH.
La.-79-S	5,000	184	AH.
La.-80-S	5,000	185	AH.

SHIP SHOAL OFFICIAL LEASING MAP No. 5

Tract No.	Acreage	Block	Description
La.-81-S	5,000	168	AH.
La.-82-S	5,000	169	AH.
La.-83-S	5,000	170	AH.
La.-84-S	5,000	181	AH.
La.-85-S	5,000	182	AH.
La.-86-S	5,000	183	AH.

SOUTH TIMBALIER OFFICIAL LEASING MAP No. 6

Tract No.	Acreage	Block	Description
La.-87-S	5,000	128	AH.
La.-88-S	5,000	129	AH.
La.-89-S	5,000	130	AH.
La.-90-S	2,148.46	131	AH.
La.-91-S	2,148.46	132	AH.
La.-92-S	5,000	133	AH.
La.-93-S	5,000	134	AH.
La.-94-S	5,000	135	AH.
La.-95-S	5,000	151	AH.
La.-96-S	5,000	152	AH.

GRAND ISLE OFFICIAL LEASING MAP No. 7

Tract No.	Acreage	Block	Description
La.-97-S	5,000	59	AH.
La.-98-S	5,000	60	AH.
La.-99-S	4,539.89	61	AH.
La.-100-S	4,539.89	62	AH.
La.-101-S	5,000	63	AH.
La.-102-S	5,000	64	AH.
La.-103-S	5,000	71	AH.
La.-104-S	5,000	72	AH.
La.-105-S	4,539.89	73	AH.
La.-106-S	4,539.89	74	AH.
La.-107-S	5,000	75	AH.
La.-108-S	5,000	76	AH.

Bidders are requested to submit their bids in the following form:

DIRECTOR,

Bureau of Land Management, Department of the Interior, Washington 25, D. C.

SULPHUR BID

OUTER CONTINENTAL SHELF

The following bid is submitted for a sulphur lease on land of the outer Continental Shelf specified below:

Area _____
Official Leasing Map No. _____

Tract No.	Total amount bid	Amount per acre	Amount submitted with bid

Signature _____

Address _____

IMPORTANT

Each bid must be accompanied by one-fifth of the total amount bid. This amount may be in cash, money order, cashier's check, certified check, or bank draft. A separate bid must be made for each tract.

EDWARD WOOLEY,

Director,

Bureau of Land Management.

[F. R. Doc. 54-7135; Filed, Sept. 10, 1954; 8:45 a. m.]

[Misc. 68646]

IDAHO

REVOKING DEPARTMENTAL ORDER OF APRIL 4, 1908, WITHDRAWING PUBLIC LANDS FOR USE OF THE FOREST SERVICE

SEPTEMBER 7, 1954.

Upon recommendation of the Department of Agriculture and in accordance with Departmental Order No. 2583, section 2.22 (a) of August 16, 1950, it is ordered as follows:

The order of the Assistant Secretary of the Interior of April 4, 1908, withdrawing the following-described public lands in Idaho for use by the Forest Service as an administrative site, is hereby revoked:

BOISE MERIDIAN

T. 30 N., R. 4 E.,

Sec. 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The tract described contains approximately 60 acres.

The lands, which comprise part of the Nezperce National Forest, shall become subject to the public-land laws relating to national forest lands at 10:00 a. m. on the 35th day from the date of this order.

EDWARD WOOLEY,
Director.

[F. R. Doc. 54-7121; Filed, Sept. 10, 1954; 8:47 a. m.]

Bureau of Reclamation

HAMMOND PROJECT, NEW MEXICO

ORDER OF REVOCATION

DECEMBER 1, 1953.

Pursuant to the authority delegated by Departmental Order No. 2515 of April 7, 1949 (14 F. R. 1937), I hereby revoke Departmental Order of October 11, 1944, insofar as said order affects the following described lands; provided, however, that such revocation shall not affect the withdrawal of any other lands by said order or affect any other orders withdrawing or reserving the lands herein-after described:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 12 W.,

Sec. 28: NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The above areas aggregate 40.00 acres.

W. A. DEXHEIMER,
Commissioner.

[Misc. 2003130]

SEPTEMBER 3, 1954.

I concur. The records of the Bureau of Land Management will be noted accordingly. The lands are reserved for power site purposes by Executive order of July 2, 1910.

EARL G. HARRINGTON,
Acting Associate Director,
Bureau of Land Management.

[F. R. Doc. 54-7123; Filed, Sept. 10, 1954; 8:47 a. m.]

BLUE RIVER-SOUTH PLATTE PROJECT,
COLORADO

ORDER OF REVOCATION

MAY 12, 1954.

Pursuant to the authority delegated by Departmental Order No. 2515 of April 7, 1949 (14 F. R. 1937), I hereby revoke Departmental Order of March 15, 1946, in so far as said order affects the following described land; provided, however, that such revocation shall not affect the withdrawal of any other lands by said order or affect any other orders withdrawing or reserving the land herein-after described:

SIXTH PRINCIPAL MERIDIAN, COLORADO
T. 5 S., R. 77 W.,
Sec. 8, SE¼NW¼ and Lot 3.

The above area aggregates 76.39 acres.

N. B. BENNETT,
Acting Asst. Commissioner.

[Misc. 2087156]

SEPTEMBER 7, 1954.

I concur. The records of the Bureau of Land Management will be noted accordingly.

The lands are located about one and one-half miles northeast of Dillon, Colorado, and adjacent to the Arapaho National Forest. They are made up mostly of steep slopes with a thick cover of lodgepole pine over most of the area. None of the timber is of commercial value.

No application for the lands may be allowed under the homestead, desert-land, small tract, or any other non-mineral public-land law unless the land has already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not otherwise become effective to change the status of the described lands until 10:00 a. m., on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition, location and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended.

Veterans preference-right applications under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) as amended, may be filed on or before 10:00 a. m., on the 35th day after the date of this order, and those covering the same land shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by the general public under the public-land laws, filed on or before 10:00 a. m., on the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same

lands; otherwise, priority of filing shall govern.

Inquiries regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colorado.

W. G. GUERNSEY,
Acting Director,
Bureau of Land Management.

[F. R. Doc. 54-7124; Filed, Sept. 10, 1954;
8:47 a. m.]

Office of the Secretary

[Order 2583, Amdt. 11]

BUREAU OF LAND MANAGEMENT

SITES FOR RECREATIONAL OR ANY PUBLIC
PURPOSE

SEPTEMBER 3, 1954.

Section 2.69 of Order No. 2583, as amended (15 F. R. 5643, 6997; 16 F. R. 6805; 17 F. R. 7513, 10486; 18 F. R. 161, 3446, 5715; 19 F. R. 1021, 1937, 2555), is recaptured and amendeded to read as follows:

Sec. 2.69 *Sites for recreational or any public purpose.* All actions with respect to conveyances and leases to Federal, State, Territorial, and local governmental units and to nonprofit associations and corporations pursuant to 43 CFR, Part 254, and other applicable regulations.

(Sec. 2, Reorg. Plan No. 3 of 1950; 5 U. S. C., 1952 ed., sec. 1332-15, Note.)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

[F. R. Doc. 54-7125; Filed, Sept. 10, 1954;
8:48 a. m.]

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1954
102d Supp.]

MARINE INSURANCE CO. LTD.

ACCEPTABLE REINSURING COMPANIES ON
FEDERAL BONDS

SEPTEMBER 7, 1954.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company as a reinsuring company only on Federal bonds under Treasury Department Circular No. 297, July 15, 1922, as amended, 31 CFR Part 223. An underwriting limitation of \$519,000.00 has been established for the company.

The Marine Insurance Company, Limited,
London, England (U. S. Office, New York,
New York).

[SEAL] A. N. OVERBY,
Acting Secretary of the Treasury.

[F. R. Doc. 54-7136; Filed, Sept. 10, 1954;
8:49 a. m.]

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1954 103d
Supp.]

LONDON ASSURANCE CO.

ACCEPTABLE REINSURING COMPANIES ON
FEDERAL BONDS

SEPTEMBER 7, 1954.

A Certificate of Authority has been issued by the Secretary of the Treasury to

the following company as a reinsuring company only on Federal bonds under Treasury Department Circular No. 297, July 15, 1922, as amended, 31 CFR Part 223. An underwriting limitation of \$814,000.00 has been established for the company.

The London Assurance Company, London,
England (U. S. Office, New York, New York).

[SEAL] A. N. OVERBY,
Acting Secretary of the Treasury.

[F. R. Doc. 54-7137; Filed, Sept. 10, 1954;
8:50 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 3476]

CITY OF SIOUX FALLS, S. DAK.

POSTPONEMENT OF PREHEARING CONFERENCE

Notice is hereby given that the pre-hearing conference in the above-entitled proceeding, assigned to be held on September 14, 1954, is postponed to September 16, 1954, at 10:00 a. m., e. d. s. t., in Room 5859, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before Examiner Barron Fredricks.

Dated at Washington, D. C., September 8, 1954.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 54-7157; Filed, Sept. 10, 1954;
8:54 a. m.]

FEDERAL COMMUNICATIONS
COMMISSION

[Docket No. 11156; FCC 54-1105]

VAN CURLER BROADCASTING CORP. (WTRI)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON
STATED ISSUES

In re application of Van Curler Broadcasting Corporation (WTRI), Schenectady, New York, for modification of construction permit to change principal community to Albany, New York, and to maintain main studio outside Albany; Docket No. 11156, File No. BMPCT-2201.

1. The Commission has before it for consideration (1) a "Petition to Reconsider Grant and Designate Application for Hearing" filed on August 5, 1954, pursuant to Sections 309 (c) and 405 of the Communications Act of 1934, as amended, by Hudson Valley Broadcasting Company, Inc. (Hudson Valley), permittee of television broadcast station WROW-TV, Channel 41, Albany, New York, protesting the Commission's action of July 7, 1954, granting without hearing the above-entitled application and requesting rehearing or reconsideration of such action; (2) an "Opposition to Protest" filed on August 19, 1954¹ by Van Curler Broadcasting Corporation (Van Curler); and (3) a "Reply to Opposition to Protest" filed by Hudson Valley on August 31, 1954.

¹The time for answering the subject protest was extended by the Commission to August 19, 1954, upon a motion by Van Curler which was not opposed.

2. On June 10, 1953, the Commission granted the application (BPCT-408) of Van Curler for a permit to construct a television station on Channel 35 assigned to Schenectady, New York. This application specified the main studio location as a site to be determined in Schenectady, and the transmitter site was designated off Camp Pinnacle Road 2.2 miles west of New Salem, New York. On October 7, 1953, the Commission authorized the change of transmitter location to approximately two miles east of the northernmost boundary of Troy on Mt. Rafinesque. On November 5, 1953, Van Curler filed an application (BMPCT-1550) which, as amended on November 16, 1953, specified the main studio location as 30-32 No. Pearl Street, Menands, New York. With this application, Van Curler submitted a "Justification for locating main studio outside of Schenectady, as provided for in § 3.613 (b) of the rules." By letter dated January 13, 1954, the Commission advised the applicant that, on the basis of the pleadings before it, there had been no showing made by the applicant consistent with the provisions of § 3.613 (b) of the rules and that the change of main studio location could not have been granted without a hearing. Subsequently, the request to locate main studio outside Albany was withdrawn.

3. On January 18, 1954, Van Curler requested special temporary authorization to operate WTRI commercially pursuant to the terms of its construction permit, as modified, except that (a) the transmitter building would be used as a temporary emergency studio; and (b) that a directional antenna would be used. On January 20, 1954, the Commission granted said request.

4. On May 12, 1954 the Commission adopted a Report and Order in Docket No. 10964, wherein it amended the Table of Assignments by assigning Channel 35 to "Albany-Schenectady-Troy", New York in lieu of Schenectady. This amendment was duly published in the FEDERAL REGISTER (19 F. R. 2900) and became effective on June 18, 1954. Thereafter, on June 21, 1954, Van Curler filed the above-entitled application requesting authority to specify Albany rather than Schenectady as the principal city to be served, and to specify the main studio location as 30-32 North Pearl Street, Menands, New York,² the site referred to in paragraph 2 supra. Van Curler submitted with the application a request for waiver under § 3.613 (b) to permit location of the main studio outside of Albany. The Commission granted the application without hearing on July 7, 1954.

5. In its protest, Hudson Valley alleges, in substance, that it is the operator of television broadcast station WROW-TV, Albany; that it is presently competing for operating revenues with four AM stations (including its own); that as a result of the subject grant permitting WTRI to locate in Albany, it will be in competition with two television stations

instead of only one as formerly; that as a result of the grant of the above-entitled application, Hudson Valley has been economically injured and will continue to suffer economic injury; and that, therefore, it is a "party in interest" and a "person aggrieved" within the purview of sections 309 (c) and 405, respectively, of the Communications Act of 1934, as amended.

6. In support of its protest and petition for reconsideration, Hudson Valley alleges that it relied upon the Commission's Sixth Report and Order in calculating the competition it would face as an Albany station; that if Van Curler is permitted to locate its main studio on the outside of Albany, instead of in Schenectady, Hudson Valley faces economic ruin; and that " * * * Van Curler never intended to locate in the city of Schenectady and any representations that it would be a Schenectady outlet do not comport with the facts * * *". Finally, Hudson Valley requests that the Commission set aside the grant and designate the application for hearing on the issues set forth in its pleading, together with such further issues as the Commission may prescribe; postpone the effective date of the Commission's action granting the application to the effective date of the Commission's decision after hearing; and, pending such action on this petition, enter an order temporarily staying the effective date of the grant.³

7. In its opposition to the instant petition, Van Curler urges, in substance, that Hudson Valley is not a "party in interest" under section 309 (c) of the act because it cannot show real and immediate injury resulting directly from the Commission's actions in granting the above-entitled application; that its statements of injury are wholly speculative and conjectural; and that Hudson Valley has set forth only one basic factual allegation of loss of business and did not relate it to the grant of the subject application. Van Curler also urges that the Commission's action complained of is not subject to protest under section 309 (c) of the act because it is only a "minor modification." Finally, Van Curler urges that Hudson Valley's protest does not state sufficient grounds for reconsideration of the Commission's action, in that its claim that it will suffer ruinous competition is not sufficient cause for denying an application and is, therefore, irrelevant; that its claim that Van Curler never intended to locate its studios in Schenectady is false, and that, in any event, all of the facts cited to support that charge were known to, and considered by, the Commission when it granted Van Curler's application; and that its claim that it relied upon the Commission's Sixth Report and Order which assigned Channel 35 to Schenectady comes too late, since it unsuccessfully opposed subsequent rule making to change Channel 35 to an "Albany-Schenectady-Troy" assignment.

8. In light of the fact that Hudson Valley is the permittee of a television broadcast station in Albany, New York; that it derives operating revenues from that area from the sale of national, re-

gional and local advertising; that the grant herein makes Van Curler's television station, WTRI, an Albany station and, therefore, places it in direct competition with Hudson Valley's television station; and that Hudson Valley has alleged that it has been and will continue to be financially injured by the grant complained of, we find that Hudson Valley is a "party in interest" and an "aggrieved party" within the meaning of sections 309 (c) and 405, respectively, of the Communications Act of 1934, as amended. In re Application of Kansas State College of Agriculture and Applied Science, 8 Pike & Fischer RR 261; In re Application of Edwin G. Polan et al., 8 Pike & Fischer RR 398; Versluis Radio & Television, Inc., 9 Pike & Fischer RR 102; In re T. E. Allen & Sons, Inc., 9 Pike & Fischer RR 197; In re Ohio Valley Broadcasting Corporation, 10 Pike & Fischer RR 452.

9. Hudson Valley has specified the following issues:

1. To determine the extent to which a grant of the WTRI application will subject WROW to ruinous competition.

2. To determine whether or not WTRI acted in good faith in applying for a construction permit for Schenectady in the light of its efforts to locate the main studio elsewhere.

3. To determine whether the competition resulting from the operation of its main studio as proposed by WTRI is in the public interest.

4. To determine whether the public interest will best be served by WTRI locating its main studio near Albany, as proposed, or locating it in Schenectady.

It is clear that once a protestant has established standing to protest as a party in interest, it must then meet the further jurisdictional requirements of section 309 (c) that the protestant "shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally." As we pointed out in the Allen⁴ and Salinas⁵ cases, "The clear import of this requirement is that a protestant must do something more than set forth in his protest vague, non-specific, conclusory arguments and allegations; he must allege those facts upon which his conclusions as to the impropriety of the Commission's grant without hearing are predicted. These facts must be alleged with specificity; they must be concrete, basic facts." In the instant case, we find that Hudson Valley failed to comply with this basic jurisdictional requirement in the case of issues "1", "3" and "4" quoted above.

10. With respect to issues "1" and "3" specified by the protestant, we find that the protestant has not alleged concrete, basic facts, or for that matter, any other facts to support such issues. The framing of conclusory issues standing alone and unsupported by basic facts does not meet the statutory requirement for specificity under section 309 (c) of the act. Although the protestant has

⁴ In re Application of T. E. Allen & Sons, Inc., 9 Pike & Fischer RR 590a.

⁵ In re Applications of Salinas Broadcasting Corporation et al., 9 Pike & Fischer RR 595.

² This studio location is on the main thoroughfare into Albany, 75 feet from the Albany city line and 2 1/4 miles from the main business district.

³ This request was denied by the Commission by Order dated August 24, 1954.

set forth allegations of fact showing it to be a party in interest based on the economic injury which it will suffer, it did not allege a single fact in support of its first issue with respect to "ruinous competition." And issue "3" is merely a broad, general conclusionary issue also not related specifically to any facts set forth in the protest. Furthermore, there are not even allegations in the pleading which can be construed as supporting the conclusions implied in issue "3" apart from the implied allegations in the issue itself.

11. In support of issues "2" and "4" quoted above, Hudson Valley has related the various steps which Van Curler has taken in changing its studio and transmitter locations up to and including the above-entitled application, through the grant by which WTRI became an Albany station. Upon the basis of such facts, Hudson Valley contends that Van Curler never intended to locate in Schenectady, and had not acted in good faith in applying originally for a construction permit for Schenectady. Therefore, with respect to issues "2" and "4" specified by the protestant, we find that it has stated with particularity the facts, matters and things relied upon as required by the provisions of section 309 (c) to warrant the designation of the above-entitled application for hearing upon these issues. However, in making this finding we do not determine or imply that even if the facts with respect to such issues are as alleged by the protestant, they are such that they would result in a determination that the grant to the applicant herein was improper, contrary to the public interest or should be set aside. Accordingly, said issues are not being adopted by the Commission and the burden of proof thereon both in proving the facts alleged and in demonstrating their materiality and relevancy will be on the protestant.

12. In view of the foregoing: It is ordered, That, insofar as the petition herein requests reconsideration of the Commission's action of July 7, 1954, pursuant to section 405 of the Communications Act of 1934, as amended, it is denied, except with respect to the hearing provided for below; that, effective immediately, the effective date of the grant of the above-entitled application is postponed pending a final determination by the Commission with respect to the protest herein of Hudson Valley Broadcasting Company, Inc.; and that, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-entitled application for modification

of construction permit is designated for hearing at the offices of the Commission in Washington, D. C., on the following issues:

(a) To determine whether or not WTRI acted in good faith in applying for a construction permit for Schenectady in the light of its efforts to locate the main studio elsewhere.

(b) To determine whether the public interest will best be served by WTRI locating its main studio near Albany, as proposed, or locating it in Schenectady.

(c) To determine, in the light of the evidence adduced on the foregoing issues, whether the public interest, convenience or necessity require that the grant of the subject application be vacated.

The burden of proof as to each of the above issues shall be on the protestant.

13. It is further ordered, That the protestant and the Chief of the Broadcast Bureau are hereby made parties to the proceeding herein and that:

(a) The hearing on the above issues shall commence at 10:00 a. m. on September 20, 1954, before an Examiner to be specified by the Commission; and

(b) The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions; and

(c) The appearances by the parties intending to participate in the above hearing shall be filed not later than September 13, 1954.

Adopted: September 1, 1954.

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[P. R. Doc. 54-7146; Filed, Sept. 10, 1954;
8:51 a. m.]

[Rules Amdt. 0-28; FCC 54-1124]

REGIONAL MANAGERS AND DISTRICT FIELD OFFICE AREAS

STATEMENTS OF ORGANIZATION, DELEGATIONS OF AUTHORITY AND PUBLIC INFORMATION

In the matter of amendment of Part 0 of the Commission's rules and regulations. Modification of section 0.40 with reference to Regional Managers and District Field office areas.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of September 1954;

The Commission having under consideration further reduction in the number of Regional offices and reorganization of the area embraced by its Seattle, Washington, Regional office and relocation of its District office in Juneau, Alaska; and

It appearing that the Anchorage, Alaska Regional office should be eliminated and that the Territory of Alaska should be included within the area em-

braced by the Seattle, Washington Regional office; and

It further appearing that the District office presently located at Juneau, Alaska should be transferred to Anchorage, Alaska and that a District Sub-Office be established in Juneau.

It is ordered, Pursuant to section 4 (1) and 303 (r) of the Communications Act, as amended, and section 3 (a) of the Administrative Procedure Act that Part 0 of the Commission's rules is hereby amended, effective September 15, 1954, as set forth below.

Released: September 7, 1954.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Amend section 0.40 by adding under Region No. 4: District No. 23.

2. Amend section 0.40 by deleting the listing under Regional Managers; "Region No. 6, P. O. Box 644 (Rm. 52 U. S. P. O. and Courthouse), Anchorage, Alaska—To include: District No. 23".

3. Amend section 0.40 by modifying the information contained under Radio District No. 23 to read as follows:

P. O. Box 644,
Room 53,
U. S. P. O. and Courthouse Building,
Anchorage, Alaska.

Sub-Office: P. O. Box 1421, 7-8,
Shattuck Building,
Juneau, Alaska.

4. Amend section 0.40 by renumbering the Regional offices from 1 to 7 as follows:

Region No. 1, 954 Federal Building, 641 Washington Street, New York 14, N. Y.—To include: Districts Nos. 1, 2, 3, 4, 5, and 24.

Region No. 2, 411 Federal Annex, Atlanta, Ga.—To include: Districts Nos. 6, 7, 8, 9, 10, and 22.

Region No. 3, 323-A Customhouse, San Francisco 26, Calif.—To include: Districts Nos. 11, 12, and 15.

Region No. 4, 802 Federal Office Building, Seattle 4, Wash.—To include: Districts Nos. 13, 14, and 23.

Region No. 5, P. O. Box 1142, Lanikai, Oahu, T. H.—To include: District No. 21.

Region No. 6, 832 U. S. Courthouse, Chicago 4, Ill.—To include: Districts Nos. 16, 17, and 18.

Region No. 7, 1029 New Federal Building, Detroit 26, Mich.—To include: Districts Nos. 19 and 20.

[P. R. Doc. 54-7147; Filed, Sept. 10, 1954;
8:51 a. m.]

FEDERAL CIVIL DEFENSE ADMINISTRATION

[FCDA Delegation 2]

SECRETARY OF AGRICULTURE ET AL.

DELEGATION OF AUTHORITY WITH RESPECT TO CERTAIN RESPONSIBILITIES

By virtue of the authority vested in me by section 201 (b) of the Federal Civil Defense Act of 1950 (64 Stat. 1248), and in the interest of the development of the national civil-defense program contemplated by the act, including action in support of the States during a civil-defense emergency, I hereby delegate the following-described responsibilities, as indi-

*There is a grave doubt as to whether a showing of economic injury on the part of a protestant would entitle him to a hearing on an issue relating to the competition which the protestant would suffer from the operation of another station in his community. In the case of Voice of Cullman, 6 Pike & Fischer RR 164, we stated: "In the Sanders Bros. case, the existing station had no right of its own to protest; the fact of economic injury to it was not a factor in the Commission's determination, and the existing station had standing before the Commission and the courts only to show any errors in law that may have been committed by the Commission."

cated, to the Secretary of Agriculture, the Secretary of Commerce, the Attorney General, the Secretary of Labor, and the Housing and Home Finance Administrator:

The Secretary of Agriculture. 1. Plan a national program and direct Federal activities concerned with research, diagnosis, strengthening of defensive barriers, and control or eradication of diseases, pests, or chemicals introduced as agents of biological or chemical warfare against animals or crops.

2. Plan and direct Federal activities, and provide technical guidance to States, in connection with an over-all food program aimed at maintaining adequate emergency food supplies for attacked or support areas.

3. Plan a national program, direct Federal activities, and provide technical guidance to States concerned with the prevention and control of fires caused by enemy attack in rural areas of the United States.

The Secretary of Commerce. 1. Provide advice and guidance to State highway departments in the designation of State civil-defense emergency highway routes.

2. Coordinate interstate and State designated civil-defense highway systems to assure uniformity of designation for civil-defense emergency purposes.

3. Plan a national program, develop technical guidance for States, and direct Federal activities concerning emergency clearance and restoration of highways, streets, and bridges in damaged areas.

4. Provide technical guidance to States concerning highway traffic control problems which may be created during a civil-defense emergency.

5. Provide data and assist the States in conducting analyses of potential target and support areas for the purpose of providing basic statistics and maps essential to the completion of Federal, State, and local civil-defense operating plans.

The Secretary of Labor. 1. Plan and develop a national program relating to the utilization of the labor force, during a civil-defense emergency, consistent with the responsibilities of the Department of Labor with respect to manpower mobilization.

2. Conduct research and provide a method of estimating survivors, by occupational and social characteristics, and for determining their availability for employment during a civil-defense emergency.

3. Provide technical guidance to the States and direct Federal activities concerned with coordination of the nationwide system of employment service offices for determining requirements of, and recruiting, referring, and utilizing workers to meet, civil-defense needs.

4. Plan a national program, develop technical guidance for States, and direct Federal activities concerned with the methods of compensation for authorized workers in a civil-defense emergency.

5. Plan a national program, develop technical guidance for States, and direct Federal activities concerned with the provision of compensation payments for the injury or death of authorized work-

ers while engaged in civil-defense activities.

6. Plan a national program, develop technical guidance for States, and direct Federal activities concerned with financial assistance for temporary aid to members of the labor force during periods of idleness due to destruction of working places through enemy action.

The Attorney General. Provide technical guidance to States concerning the protection of penal institutions and the control and utilization of prisoners and facilities during a civil-defense emergency.

The Housing and Home Finance Administrator. 1. Conduct research and provide technical guidance to the States concerning protective standards for new housing construction and temporary shelter in existing housing facilities.

2. Plan a national program, provide technical guidance to the States, and direct Federal activities concerned with the provision of temporary emergency housing in support of areas subjected to enemy attack.

3. Plan a national program, develop technical guidance for States, and direct Federal activities concerned with the emergency restoration of essential housing and those related community facilities damaged by enemy action for which the agency normally has legal responsibility.

General delegations. I hereby delegate to the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Attorney General, and the Housing and Home Finance Administrator:

1. The authority during a civil-defense emergency whenever needed to carry out their responsibilities hereunder, to employ temporarily additional personnel without regard to the civil-service laws and to incur such obligations on behalf of the United States as may be required to meet the civil-defense requirements of an attack or of an anticipated attack.

2. The authority to disseminate such civil-defense information as may be approved from time to time by the Federal Civil Defense Administration.

General provisions. In carrying out their responsibilities hereunder, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Attorney General, and the Housing and Home Finance Administrator shall be governed by the following:

1. The Federal Civil Defense Administrator shall provide basic assumptions, criteria, and standards relating to the said responsibilities and shall review and coordinate the carrying out of such responsibilities.

2. The designated officials shall take into consideration assignments respecting mobilization preparedness measures made to them by the Office of Defense Mobilization.

3. Each of the designated officials, as the official having primary responsibility for the matters hereby delegated to him, shall undertake to coordinate directly with other Federal agencies concerned.

4. Each of the designated officials shall be responsible, after consultation with the Federal Civil Defense Administra-

tion, for requesting such appropriations as may be required for his delegated responsibilities.

5. The designated officials shall make such reports as may be required by the Federal Civil Defense Administrator to insure consistency with national civil-defense policies and standards.

The provisions hereof shall become effective upon the date of approval by the President.

Dated: August 19, 1954.

VAL PETERSON,
Federal Civil Defense Administrator.

Approved: September 8, 1954.

DWIGHT D. EISENHOWER,
The White House.

[F. R. Doc. 54-7181; Filed, Sept. 9, 1954;
2:34 p. m.]

FEDERAL POWER COMMISSION

[Docket No. G-2075]

TRANSCONTINENTAL GAS PIPE LINE CORP.

ORDER FIXING DATE OF ORAL ARGUMENT

Public hearings were concluded March 30, 1954, and the filing of briefs was completed on August 17, 1954, in the above-entitled proceeding which involves the question of whether Transcontinental Gas Pipe Line Corporation (Transcontinental) should be permitted to include in its rate base an amount of \$5,372,025, less related accrued depreciation of approximately \$351,845, associated with the financing of Transcontinental's facilities in Docket Nos. G-704 and G-1143. Transcontinental on August 24, 1954, filed a motion for oral argument on this matter.

It appearing that this proceeding involves important issues, as reflected in the briefs heretofore filed by Transcontinental, Interveners and Commission Staff Counsel, the Commission finds: It is appropriate in carrying out the provisions of the Natural Gas Act, and good cause exists, to hold oral argument, as hereinafter provided and ordered.

The Commission orders: Oral argument be held before the Commission, commencing on October 19, 1954, at 10:00 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by this proceeding.

Adopted: September 1, 1954.

Issued: September 7, 1954.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-7134; Filed, Sept. 10, 1954;
8:49 a. m.]

GENERAL SERVICES ADMINISTRATION

PALM OIL HELD IN NATIONAL STOCK PILES
DISPOSITION

Pursuant to the provisions of section 3 (e) of the Strategic and Critical Ma-

terials Stock Piling Act, 60 Stat. 597, 50 U. S. C. 98b (e), notice is hereby given of a proposed disposition of approximately 11,000,000 pounds of palm oil now held in the National Stock Pile.

This quantity of palm oil is no longer needed in the National Stock Pile because of a revised determination by the Office of Defense Mobilization that palm oil is obsolescent for use in time of war because of the development of new, non-strategic materials.

Since the quantity of palm oil to be disposed of, pursuant to this notice, represents only a small portion of the normal total annual consumption of the country, it is anticipated that the proposed disposition will have no disruptive effect on the market for palm oil. It is further anticipated that the total quantity of oil to be disposed of will be sold, at current market prices at the time of each sale, to the major consumer of this commodity, the steel industry, for whose use this commodity was originally stock-piled.

This material will be available for disposition on and after March 11, 1955, and disposal, as outlined above, is proposed in order to avoid an expensive and costly waste of a material which is obsolescent and subject to deterioration and in order to avoid continuing storage and rotation costs.

Dated: September 8, 1954.

EDMUND F. MANSURE,
Administrator.

[F. R. Doc. 54-7184; Filed, Sept. 10, 1954;
8:56 a. m.]

SECRETARY OF COMMERCE

DELEGATION OF AUTHORITY WITH RESPECT TO PROCUREMENT CONTRACTS FOR EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH PURPOSES BY NATIONAL BUREAU OF STANDARDS FOR EXECUTIVE AGENCIES; REVOCATION

1. Pursuant to the authority vested in the Administrator of General Services by provisions of the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 377), the authority delegated to the Secretary of Commerce, dated November 17, 1950 (15 F. R. 8057), for use by the National Bureau of Standards, to make purchases and contracts for supplies and services, for the use of executive agencies, pursuant to Title III of the aforesaid act, whenever the Secretary of Commerce determines that the purchase or contract is one coming within the provisions of subsection 302 (c) (10) of that act, is hereby revoked.

2. The revocation of this delegation of authority shall be effective September 10, 1954.

Dated: September 8, 1954.

EDMUND F. MANSURE,
Administrator.

[F. R. Doc. 54-7185; Filed, Sept. 10, 1954;
8:56 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 29651]

FIBREBOARD BOXES FROM MIDDLETOWN, OHIO, TO ALABAMA, LOUISIANA, TENNESSEE AND MISSISSIPPI

APPLICATION FOR RELIEF

SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Agent, for carriers parties to his tariff I. C. C. No. 4367, pursuant to fourth-section order No. 17220.

Commodities involved: Boxes, fibreboard, carloads.

From: Middletown, Ohio.

To: Points in Alabama, Louisiana, Tennessee, and Mississippi.

Schedules filed containing proposed rates: Rail competition, and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7126; Filed, Sept. 10, 1954;
8:48 a. m.]

[4th Sec. Application 29652]

FIBREBOARD BOXES FROM BATTLE CREEK AND KALAMAZOO, MICH., AND RITTMAN, OHIO, TO MEMPHIS, TENN.

APPLICATION FOR RELIEF

SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Agent, for carriers parties to his tariff I. C. C. No. 4367, pursuant to fourth-section order No. 17220.

Commodities involved: Boxes, fibreboard, carloads.

From: Battle Creek and Kalamazoo, Mich., and Rittman, Ohio.

To: Memphis, Tenn.

Grounds for relief: Rail competition, and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7127; Filed, Sept. 10, 1954;
8:48 a. m.]

[4th Sec. Application 29653]

SCRAP IRON FROM SOUTHERN TERRITORY TO ZANESVILLE, OHIO

APPLICATION FOR RELIEF

SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Scrap iron and steel, carloads.

From: Points in southern territory.

To: Zanesville, Ohio.

Grounds for relief: Rail competition, circuitry, rates constructed on the basis of the short line distance formula, and additional destination.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1329, supp. 50.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7128; Filed, Sept. 10, 1954;
8:48 a. m.]

[4th Sec. Application 29654]

WOODPULP FROM KRANNERT, GA., TO
OFFICIAL AND ILLINOIS TERRITORIES

APPLICATION FOR RELIEF

SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.
Commodities involved: Woodpulp, carloads.

From: Krannert, Ga.

To: Points in official and Illinois territories.

Grounds for relief: Rail competition, circuitry, and additional routes.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1260, supp. 72.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7129; Filed, Sept. 10, 1954;
8:48 a. m.]

[4th Sec. Application 29655]

GRAIN FROM MISSOURI RIVER CITIES TO
CHICAGO, ILL.

APPLICATION FOR RELIEF

SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: W. J. Prueter, Agent, for the Chicago, Rock Island and Pacific Railroad Company.

Commodities involved: Grain, grain products and related articles, carloads.

From: Albright, Omaha, South Omaha, Nebr., and Council Bluffs, Iowa, Atchison, Kans., St. Joseph, Mo., and Kansas City, Mo.-Kans.

To: Chicago, Ill.

Grounds for relief: Rail competition, circuitry, and additional routes.

Schedules filed containing proposed rates: W. J. Prueter, Agent, I. C. C. No. A-3866, supp. 66.

Any interested person desiring the Commission to hold a hearing upon such

application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7130; Filed, Sept. 10, 1954;
8:49 a. m.]

[4th Sec. Application 29656]

CITRUS FRUITS FROM FLORIDA TO POINTS
IN SOUTHWESTERN AND W. T. L. TERRITORIES

APPLICATION FOR RELIEF

SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Citrus fruit, carloads.

From: Points in Florida.

To: Points in Arkansas, Louisiana, Missouri, Oklahoma, and Texas, Minnesota.

Grounds for relief: Rail competition, circuitry, and competition with motor carriers.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1211, supp. 50.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7131; Filed, Sept. 10, 1954;
8:49 a. m.]

[4th Sec. Application 29657]

EXPANSION TANKS IN OFFICIAL TERRITORY

APPLICATION FOR RELIEF

SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. W. Boin, and C. R. Goldrich, Agents, for carriers parties to schedules indicated below.

Commodities involved: Tanks, expansion, steel, 18 gauge or thicker, carloads.

Between: Points in official territory including extended zone "C" in Wisconsin.

Grounds for relief: Rail competition, circuitry, competition with motor carriers, rates constructed on the basis of the short line distance formula, and additional commodity.

Schedules filed containing proposed rates: C. W. Boin, Agent, I. C. C. No. A-848, supp. 332 and other schedules listed on page 2 of the application.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7132; Filed, Sept. 10, 1954;
8:49 a. m.]

[4th Sec. Application 29658]

MERCHANDISE IN MIXED CARLOADS FROM
NEW ORLEANS, LA., TO ALABAMA, FLORIDA,
AND GEORGIA

APPLICATION FOR RELIEF

SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Merchandise, in mixed carloads.

From: New Orleans, La.

To: Specified points in Alabama, Florida, and Georgia.

Grounds for relief: Rail competition, circuitry, and competition with motor carriers.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1305, supp. 49.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7133; Filed, Sept. 10, 1954;
8:49 a. m.]

[Sec. 5a Application 54]

HEAVY AND SPECIALIZED CARRIERS TARIFF
BUREAU

APPLICATION FOR APPROVAL OF AGREEMENT
SEPTEMBER 8, 1954.

The Commission is in receipt of the above-entitled and numbered applica-

tion for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed September 1, 1954, by: Shea-Matson Trucking Company, 2053 North 30th Street, Milwaukee 8, Wis.

Agreement involved: Agreement between and among common carriers by motor vehicle, member of the Heavy and Specialized Carriers Tariff Bureau, relating to rates, rules and regulations for the transportation in interstate or foreign commerce, of objects requiring the use of special equipment, special handling, rigging, and other specialized services, from, to and between points in the United States and between points in the United States and Canada and Mexico, and procedures for the joint initiation, consideration, and establishment thereof.

The complete application may be inspected at the office of the Commission in Washington, D. C.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, Division 2.

[SEAL]

GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-7145; Filed, Sept. 10, 1954;
8:51 a. m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 31, Amdt. 1]

CONNECTICUT

AMENDMENT TO DECLARATION OF DISASTER
AREA

1. Declaration of Disaster Area 31 for the State of Connecticut, dated September 1, 1954, is hereby amended by including "Fairfield County" as one of "the disaster areas" therein designated.

2. Applications for disaster loans under said declaration, as hereby amended with respect to the above County, may be filed with either of the following Offices:

(a) Small Business Administration Regional Office, 1790 Broadway, 15th Floor, New York 19, New York.

(b) A special field office located at Mathews Mansion, West End Avenue, Norwalk, Connecticut.

Dated: September 8, 1954.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 54-7138; Filed, Sept. 10, 1954;
8:50 a. m.]

